



A Forest History
of the
Uintah and Ouray
Indian Reservation

**A FOREST HISTORY
OF THE
UINTAH AND OURAY INDIAN RESERVATION
FORT DUCHESNE, UTAH**

Prepared for the
U. S. Department of the Interior
Bureau of Indian Affairs
Phoenix Area Office
Phoenix, Arizona

Contract No. CMH50930189

by

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Missoula, Montana

August 1992

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ACKNOWLEDGEMENTS

The authors wish to thank the following people for their research, editorial, and technical assistance:

Robert Bizal, Forester
John Philbin, Phoenix Area Office Forester
Roy Degler, Uintah and Ouray Administrative Forester (retired)
Larry Schmidt, Marketing Specialist, Phoenix Area Office
Perry Baker, Uintah and Ouray Superintendent
Gary Orr, Uintah and Ouray Forest Manager
Edward Secakuku, Forestry Technician
Aldric Ron Cuch, Forestry Technician
Mary Francis Moore, National Archives, Washington, D.C.
Staff at the Laguna Niguel National Archives, California
Staff at the Laguna Niguel Federal Records Center, California
Gary Williams and William Babcock, technical assistance
Deborah Clow, editor
Pamela Cobb, technical editor
Glenn Walters, cartographer
Verna Brown, typist

Chapter 1

The Forests of the Uintah and Ouray Reservation

1.1 Introduction

The forests on the Uintah and Ouray Indian Reservation in Utah have never produced large quantities of timber. Historically, two factors have restricted the reservation's logging potential: first, the Ute tribe possessed minimal tracts of commercial conifer forests, and second, southwest forests reproduce slowly. The timber harvests taken from the Uintah and Ouray Reservation timber lands were never substantial enough to support a large, professional forestry staff. Therefore, as a result, the reservation forests were often supervised and maintained by minimally qualified reservation personnel, including forestry technicians and range management specialists. The absence of a professional forester prohibited long-term planning. As a result, only day to day forestry activities were pursued and only intermittent forestry conservation activities were attempted. The one exception to this occasional forestry maintenance work was the development of a reservation fire fighting organization. Fire fighting was an essential conservation activity and became the most important and most prominent forestry activity on the Uintah and Ouray Reservation.

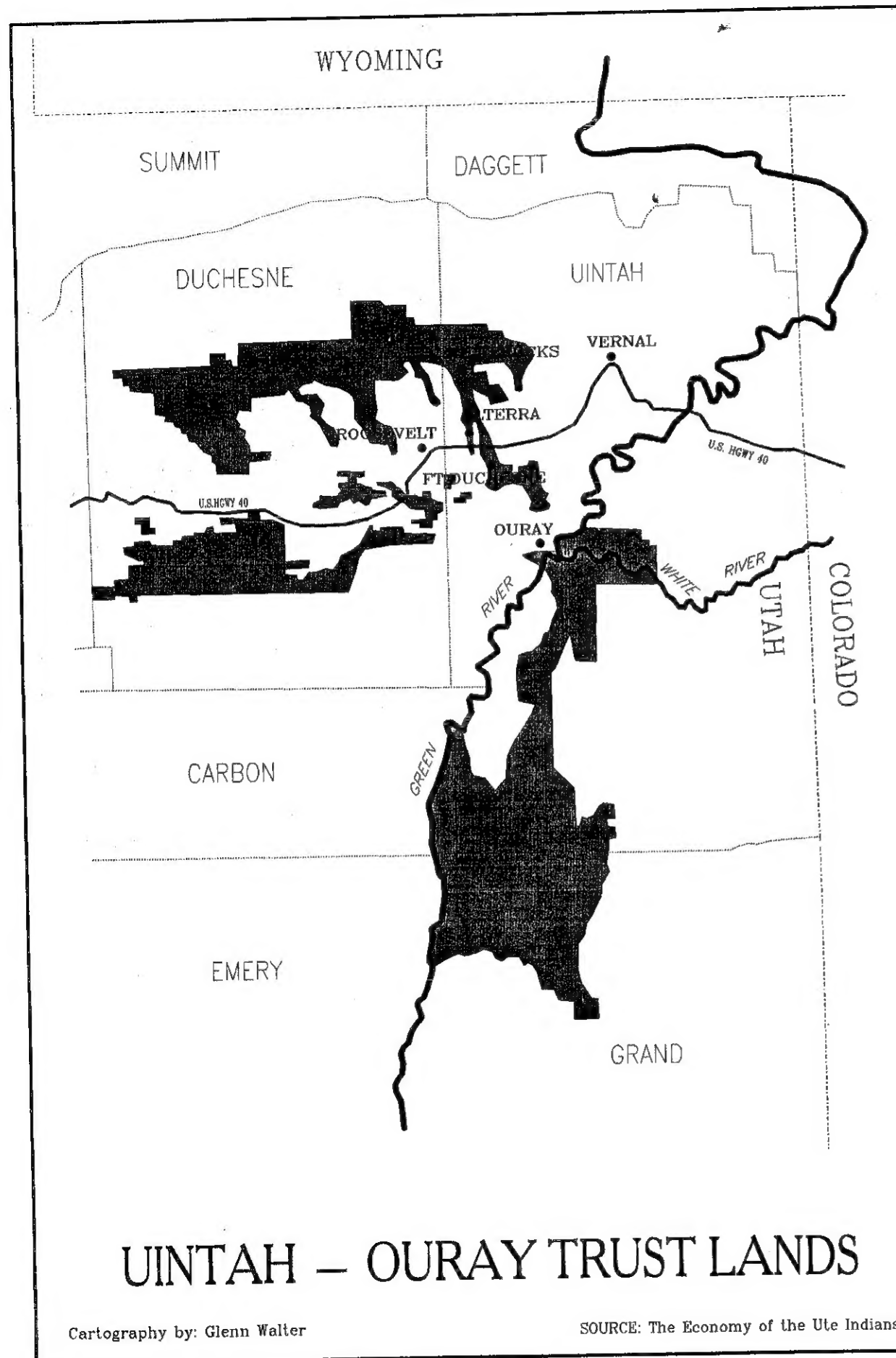
The reservation's inherent commercial timber limitations did not decrease timber demands. Both tribal and non-tribal Uinta Basin residents historically cut reservation timber for local consumption. Though the tribe's timber volume would not support a sustained-yield logging operation, the reservation's commercial forests and woodlands were an essential source of building materials and provided wood products for the local farming and ranching industry. In addition, the forests and woodlands were crucial to water conservation because they held moisture in the high mountain watersheds and they provided grazing ranges for cattle and sheep. The importance of these forests to the local communities reinforced the Uintah and Ouray Tribal Business Committee's decision to limit their sales of timber to regional sawmills.

The absence of a self-sustaining commercial forestry program does not diminish the value of forestry activities on the Uintah and Ouray Reservation. On the contrary, understanding the reservation's forestry activities provides insights into the importance of the tribe's commercial forests and extensive woodlands in the reservation's overall economic development program.

1.2 The Geographical and Climatical Setting

The Uintah and Ouray Reservation lies in the Uinta Basin which is nearly 150 miles east of Salt Lake City in northeast Utah (See Map 1).¹ The basin is an elongated depression that

¹Thomas W. Collins, "The Northern Ute Economic Development Program: Social and Cultural Dimensions," Ph. D. Dissertation, University of Colorado, 1971, p. 14.



geographically isolates the Uintah and Ouray Reservation from other nearby geographical regions.² The Uinta Basin elevation ranges from 5,000 feet to 6,000 feet above sea level. The basin extends 170 miles east to west and 100 miles north to south.³ The Uintah Reservation, which was the original Northern Ute reserve, lies completely along an east and west axis within the Uinta Basin while the Ouray portion of the reservation is in the southeast section of the Uinta Basin and extends from the village of Ouray south along the Green River.⁴

There is a sharp contrast between the basin's northern and southern borders. The Uinta Mountains create the Uinta Basin's northern border. This west-east mountain range extends east "from the Wasatch Mountains to the White River Plateau, 60 miles east of the Colorado-Utah line."⁵ The Uinta Mountains rise "an average of 7,000 feet above the surrounding bare countryside [of the Uinta Basin floor], with the highest point, Kings Peak, 13,528 feet above sea level."⁶ Mesa and bench lands along with rolling uplands dominate the northern basin's landscape before reaching the steep uplift of the Uinta Mountains.⁷ The Tavaputs Plateau creates the Uinta Basin's southern boundary. The Plateau is a monoclinical ridge which is nearly 200 miles long rising 2,000 to 3,000 feet above the Uinta Basin.⁸ In the south, the basin's terrain levels create an extensive valley flood plain which gradually rises toward the Tavaputs Plateau.⁹

²The spelling Uintah designates the Ute band and the spelling Uinta identifies geological and geographical features in the narrative.

³George H. Eldridge, "The Uintaite (Gilsonite) Deposits of Utah," Seventeenth Annual Report of the United States Geological Survey, Pt. 1, 1895-1896 (Washington: Government Printing Office, 1896), p. 920.

⁴U.S. Dept. of the Interior, Bureau of Indian Affairs, The Uintah and Ouray Reservation, Its Resources and Development Potential, Planning Support Group, of the Bureau of Indian Affairs, No. 214, Billings, Montana, 1974, p. vii.

⁵Ralf R. Woolley, The Green River and Its Utilization, Water Supply Paper No. 618, United States Geological Survey (Washington: Government Printing Office, 1930), p. 19.

⁶Philip L. Fradkin, Sagebrush Country: Land and the American West (New York: Alfred A. Knopf, 1989), p. 45.

⁷Le Moyne Wilson, D. S. Jennings, Duane Jensen, J. D. Peterson, Clark Foulger, and Harry K. Woodward, Soil Survey of Roosevelt-Duchesne Area, Utah, Series 1940, No. 24, Soil Conservation Service, United States Department of Agriculture, in cooperation with Utah Agricultural Experiment Station (Washington: Government Printing Office, 1959), p. 1.

⁸Eldridge, "The Uintaite (Gilsonite) Deposits of Utah," p. 920.

⁹Wilson et al., Soil Survey of Roosevelt-Duchesne Area, Utah, p. 1.

Throughout the basin, but in particular where the basin's elevations rise sharply, are "rough, eroded, broken lands, many broad, nearly level bench lands" and numerous small valleys. The flat table lands contrast sharply with "steep rock hills, rough, steep-sided ridges, and less rocky but dissected uplands unsuited for cultivation."¹⁰

Five general relief features, excluding the Uinta Mountains and the Tavaputs Plateau, dominate the basin's lower elevations. They are "(1) Smooth, gently sloping benches or mesas; (2) broad to narrow valley flood plains that are dissected by streams; (3) low terraces, alluvial fans, and foot slopes that lie between the bases of mesa escarpments and the valley flood plains; (4) rolling uplands; and (5) steep, rough broken and eroded lands." These distinct relief types "are not confined to any specific locality but are scattered more or less throughout the area. The mesas and rolling uplands are more extensive in the northern part, and the valley flood plains occur mainly in the central and southern parts" of the reservation.¹¹

Water contributed to the evolution of the Uinta Basin's broken terrain. Conversely, the basin's topography dictated the course and form of existing waterways. The north-facing slopes of the Tavaputs Plateau are the source for north-flowing, intermittent streams that cut through the sloping landscape in a generally northern direction. This southern basin landscape has less vegetation than the northern Uinta Mountains because the north-facing plateau terrain does not hold water, thus encouraging greater run-off. On the other hand, the steep, towering Uinta Mountains have more vegetation and possess more water-holding capacity, thereby releasing water in slower but more constant quantities producing full-flowing, south-draining mountain streams.¹²

The Green River, flowing south from Wyoming, is the most important river in the Uinta Basin in terms of both history and size. The river enters the basin from the north, dividing the basin and leaving the depression by way of Desolation Canyon in the south. The Duchesne River is the second most important river traversing the western half of the Uinta Basin; it drains tribal conifer forests and woodlands east of the Green River. The North Fork and the West Fork join at the western edge of the basin to create the Duchesne River.

Several smaller tributaries east of the North Fork and the West Fork also drain into the Duchesne River. The Strawberry River begins in the southwest corner of the basin and joins the Duchesne River at the town of Duchesne located in the west-central basin. Farther east,

¹⁰B. H. Hendrickson, D. S. Jennings, Scott Ewing, and E. H. Flanders, Soil Survey of the Uinta River Valley Area, Utah, Bureau of Soils, U.S. Department of Agriculture, in cooperation with the Utah Agricultural Experiment Station (Washington: Government Printing Office, 1925), pp. 1487-1488.

¹¹Wilson et al., Soil Survey of Roosevelt-Duchesne Area, Utah, p. 1.

¹²Edward H. Graham, "Botanical Studies in the Uinta Basin of Utah and Colorado," Annals of the Carnegie Museum, XXVI (1937), p. 56.

Lake Fork Creek flows from the north and enters the Duchesne River at Myton, Utah. Beyond Myton, the Uinta River emerges from the north Uinta slopes and flows into the Duchesne River at the town of Randlett, Utah. The Duchesne River then winds southeast of Randlett meandering toward the small community of Ouray where it joins the Green River.¹³

The Uinta Basin's topography, besides dictating water flow, also influences the region's soil composition.¹⁴ The Uinta Basin's soils are products of "mountains and mountain valleys (complex)."¹⁵ As a result, the local soils contain very little organic matter, including nitrogen, but possess a very high mineral content. The Uinta Basin soils are similar to soils found in the western Great Basin as soils from both regions share similar mineral compositions and possess colors that range "from light brown to yellowish brown or very pale brown."¹⁶

Three general soil types dominate the Uintah and Ouray Reservation (See Map 2). Entisols soil types are found on the reservation's "alluvial terraces and fans" and on flood plains and valley floors. A small band of this soil type is also found near the crest of the Uinta Mountains. These are young soils and range in color from light to dark brown "depending on the source of the sediments." Aridisols soil types are associated with Entisols soil types, but occur where moisture is light, generally below twelve inches annually. The Aridisols soils types are fine textured soils; they are thin soils that are light in color and contain alkaline. This soil type dominates the Uinta Basin. Mollisols soils types are found only in several small areas of the northern Uinta Basin, generally in higher altitudes where moisture is greater than on the basin floor. These soils were created from grasslands and forestry matter and, therefore, contain humus.¹⁷

The Uinta Basin soils reflect the arid climate which characterizes this region. The basin is a land of little precipitation; often the basin floor receives less than ten inches of moisture annually (See Map 3). High evaporation rates coupled with the amount of precipitation varying from year to year serve to intensify this lack of moisture.¹⁸

¹³Woolley, The Green River and Its Utilization, p. 23.

¹⁴Eugene P. Odum, Fundamentals of Ecology (Philadelphia and London: W. B. Saunders Company, 1959, Reprint), p. 131.

¹⁵*Ibid.*, p. 133.

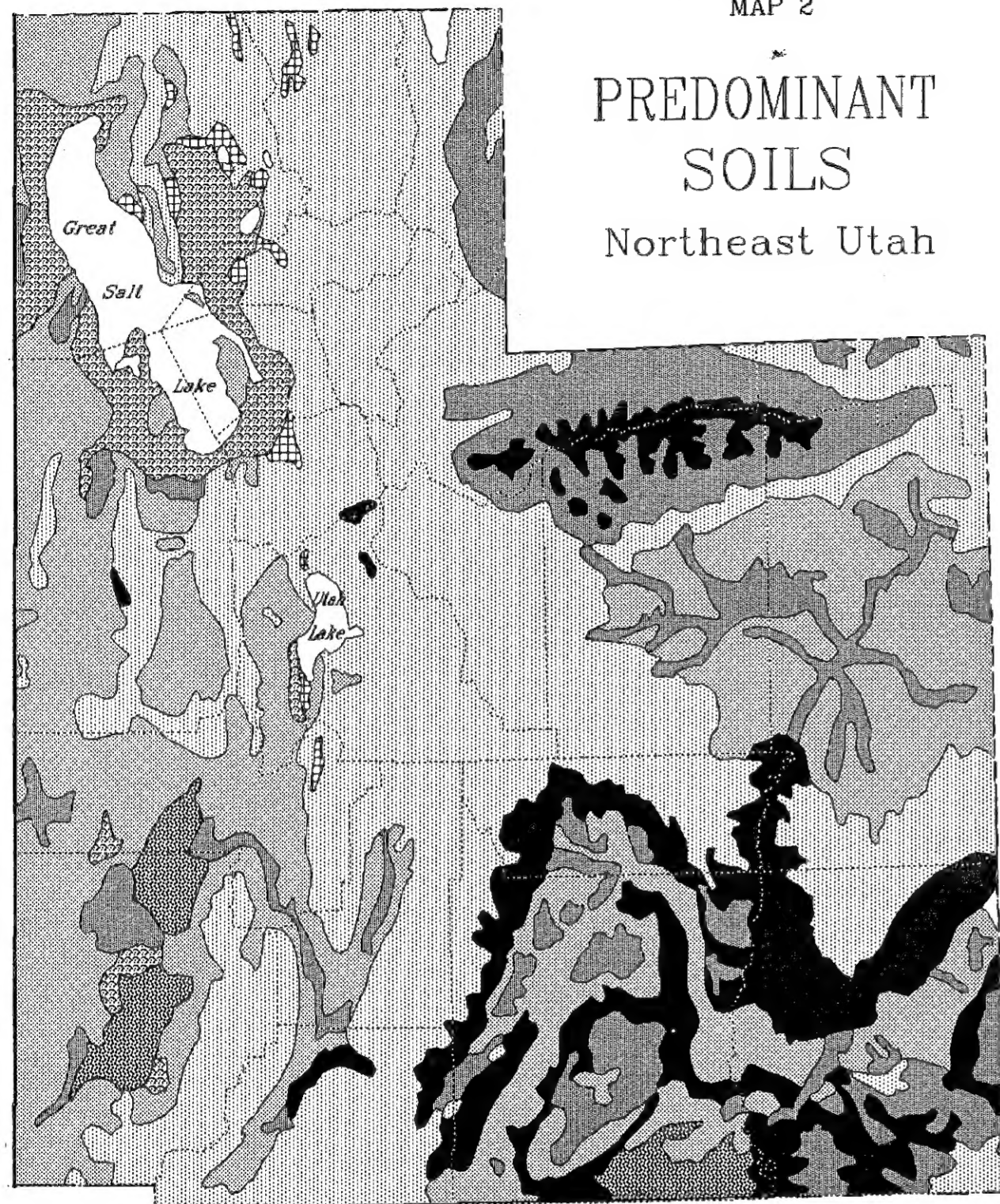
¹⁶Wilson et al., Soil Survey of Roosevelt-Duchesne Area, Utah, p. 7.

¹⁷Deon C. Greer, Klaus D. Gurgel, Wayne L. Wahlquist, Howard A. Christy, and Gary B. Peterson, Atlas of Utah (Weber State College, Utah: Brigham Young University Press, 1981), p. 29.

¹⁸Graham, "Botanical Studies in the Uinta Basin of Utah and Colorado," pp. 33-35.

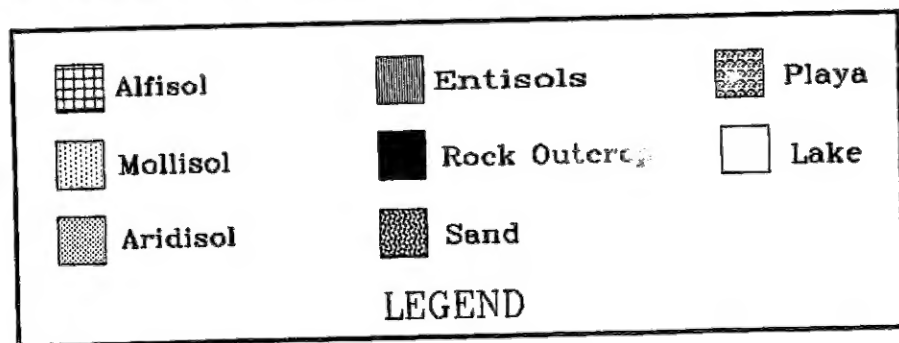
MAP 2

PREDOMINANT SOILS Northeast Utah



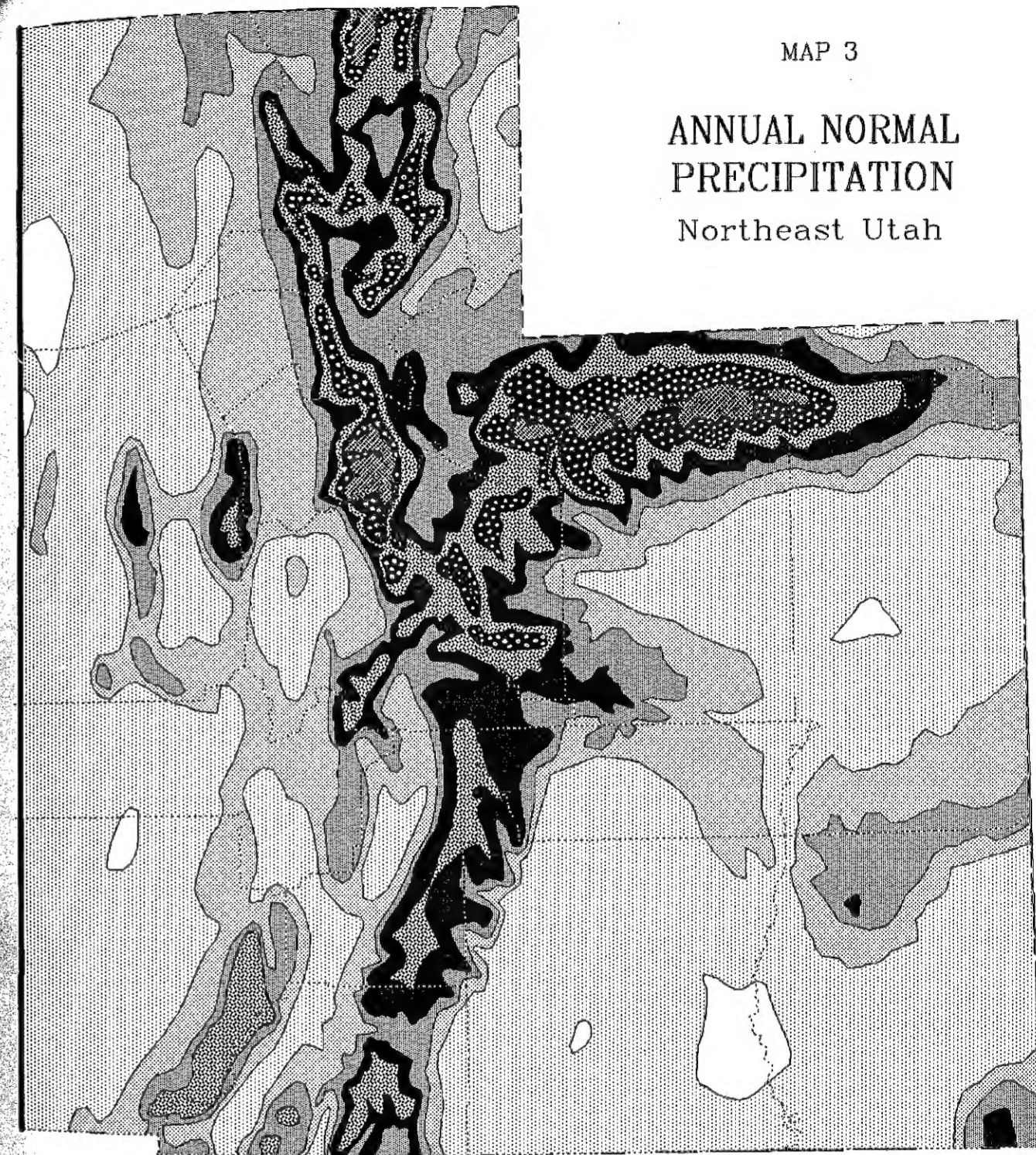
Source: Atlas of Utah

Cartography by:
Glenn Walter



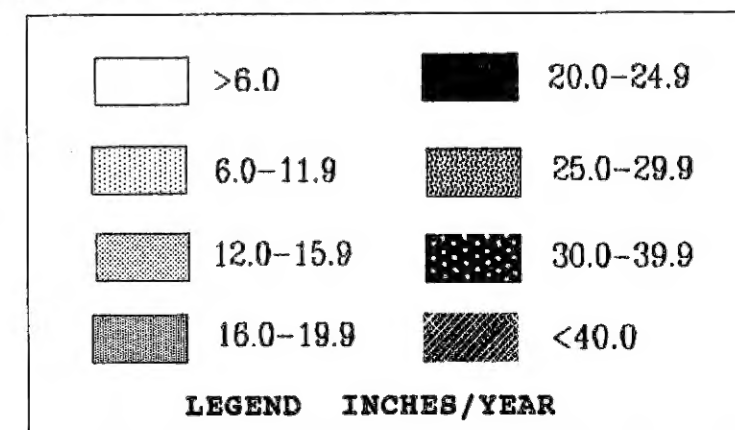
MAP 3

ANNUAL NORMAL PRECIPITATION Northeast Utah



SOURCE: Atlas of Utah

Cartography by:
Glenn Walter



On the other hand, annual moisture levels increase at higher elevations.¹⁹ Heavy winter snows are common in the Uinta Mountains and the slow melting snow pack feeds the south flowing streams originating in the mountains. Prior to the construction of United States Highway 40 (The Victory Highway) through the basin, deep Uinta Mountain snows isolated the Uintah and Ouray Reservation from other regions because of the difficulty in traveling through the snow covered passes. Prior to World War I, United States Indian Service employees were often snow-bound for six months of every year. In 1866, Utah Superintendent of Indian Affairs, I. H. Head, reported that "The Uinta Valley is practically inaccessible from the 1st of Dec. to the 1st of June or there abouts of each year owing to the deep snows upon the mountain ranges which it is necessary to cross to enter the valley."²⁰

Like the wide precipitation ranges, the seasonal temperature changes in the Uinta Basin vary greatly. Winters are cold in the Uinta Basin both on the basin floor and in the mountains. Due to its high elevation, the reservation has mild summers interrupted by brief hot spells.

Taken together, moisture and elevation create a short growing season which lasts only 113 days from the last killing frost of May 29 to the first killing frost of September 19. These figures were recorded at Fort Duchesne, the Uintah and Ouray Reservation headquarters. The growing season, however, varies slightly from one area to another on the reservation due to the differences in elevation.²¹

Uintah and Ouray Reservation forestry options have been limited by the Uinta Basin's isolation, climate, and topography. Ironically, although the isolation has created constant timber demand, the region's climate and inaccessible terrain have limited the logging options. In some instances, the rugged landscape curtailed reservation logging operations because the preservation of the forests was necessary in order to prevent soil erosion and, therefore, to protect the watershed which fed the reservation's irrigation system.

¹⁹Ibid.

²⁰I. H. Head to Dennis N. Cooley, June 21, 1866, Letters Received by the Office of Indian Affairs, 1824-1880, Utah Superintendency, 1866-1869, Microfilm [M] 234, Roll 902, Frames 59-65, Record Group [RG] 75, National Archives [NA].

²¹Wilson et al., Soil Survey of Roosevelt-Duchesne Area, Utah p. 2. See also James Dryden, The Climate of Utah, The Agricultural College of Utah, Experiment Station Bulletin No. 47 (1897), pp. 1-58.

1.3 Flora of the Uinta Basin

Cumulatively, topography, moisture, soils, and elevation determine the Uinta Basin's vegetation. Likewise, the basin's plant associations reflect the Uinta Basin's aridity, elevation, and soil types. These plant associations do not remain absolutely stable because drought, fire, and flooding change the region's plant communities. Even more important than these naturally occurring changes is man's exploitation of the basin's flora. Human intervention has contributed substantially to the alterations of these plant associations, thus changing the basin's landscape.

Prior to the creation of the reservation, Ute communities practiced low energy appropriation of the basin plants. Their low energy methods were less disruptive to the plant communities than the subsequent non-tribal high energy plant appropriation. United States Indian policy stressed extensive high energy utilization of the basin's plants and forests to achieve the cultural transformation of the Ute tribesmen into farmers and ranchers. This extensive disruption of plant communities began over one hundred years ago.²²

Outsiders began planning to change the basin's grasslands by mid-nineteenth century. Shortly after Mormon settlement of Utah Territory, United States leaders and territorial officials both supported the consolidation of the Utah tribesmen on a single reservation. The Uinta Basin was considered an ideal location for a reservation because it was an isolated region free from other territorial settlements. Before creating a reservation in the Uinta Basin, a territorial expedition examined the area landscape to determine the region's farming and ranching potential.

Mormon leaders also sought knowledge of the Uinta Basin's flora when church leaders considered settling the region. To ascertain the region's potential, Utah Territorial Governor Brigham Young ordered a Mormon reconnaissance expedition to survey the basin as a future location for a Mormon settlement in late summer 1861.²³ The expedition returned that fall and discounted the Uinta Basin as a potential location for a future settlement because the region failed to meet Mormon colonization criteria: accessibility, climatic conditions, fertility of soil, presence of water, and available wood supplies.²⁴

Mormon refusal to colonize the Basin removed any immediate white objection to making the region an Indian reservation. As a result, President Abraham Lincoln created the Uintah Reservation by Executive Order in late 1861. Utah Superintendent of Indian Affairs, James Doty's, only source of information regarding the reservation's suitability for farming and

²²Walter P. Cottam, Our Renewable Wild Lands--A Challenge (Salt Lake City: University of Utah Press, 1961), p. 9.

²³Floyd A. O'Neil, "A History of the Ute Indians of Utah Until 1890," Ph. D. Dissertation, University of Utah, 1973, p. 51.

²⁴Milton R. Hunter, Brigham Young: The Colonizer (Salt Lake City: The Deseret News Press, 1941, Second Edition), p. 145.

ranching came from just two men: Uintah Band Ute leader, Antero, and Overland Mail Route surveyor, E. D. Berthold. Antero gave Doty a glowing description of the region claiming it possessed excellent agricultural and grazing potential. Antero claimed "that there is plenty of pine and cottonwood in the vicinity of the streams, and the best of grass on the hills and in the bottoms."²⁵ Berthold confirmed Antero's observations claiming that he had surveyed the Uinta Basin as a potential route for the Overland Mail in 1861 and found that "timber is abundant; it consists of pine, fir, cottonwood, aspen, cedar, and piñon" and that the western side of the Basin for 150 miles possesses "grazing for stock [which] is excellent."²⁶

To obtain another view, Doty ordered his clerk, Amos Reed, to examine the new reservation. Reed left Salt Lake City for the Uinta Basin on August 20, 1862, with four companions who were familiar with the region. Upon reaching the basin, Reed described the western basin lands, drained by the Duchesne River, as well watered and timbered, containing broad mesas that possessed fine grasses; the land adjoining the Strawberry River also supported good grazing grasses. Farther east in the basin, Reed reported that a wide strip of timber followed the upper Uinta River and consisted of cottonwoods and aspen. The lower Duchesne River was also lined with timber. Reed found the country inaccessible, but noted that it was "extremely well watered and timbered."²⁷

Reed traveled through the Uinta Basin at the end of summer, the dry season, and his vegetation observations provided a favorable description of the reservation's landscape. Subsequent Uintah Reservation agents provided additional vegetation observations describing the basin floor as a desert country, but despite the aridity, bushes and sage brush thrived on the lower elevations encouraging agents to describe the basin's grazing potential as high.²⁸

Despite being a dry land, the Uintah and Ouray Reservation possesses a diverse plant covering because the reservation possesses higher, wetter lands that are separated by elevation from the lower, drier lands. Elevation changes provide for a broad range of flora ranging from alpine species to desert plants (See Map 4). In addition, the reservation's vegetation zones differ from the basin's north-side, south-facing mountains, to the south-side, north-facing Tavaputs Plateau, and the arid basin floor.²⁹

²⁵U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1862, H. Exec. Doc. No. 1, 37th Cong., 3rd sess., 1862, p. 343, Serial 1157.

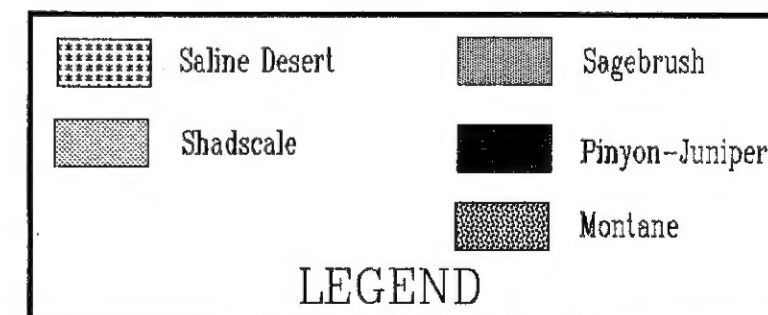
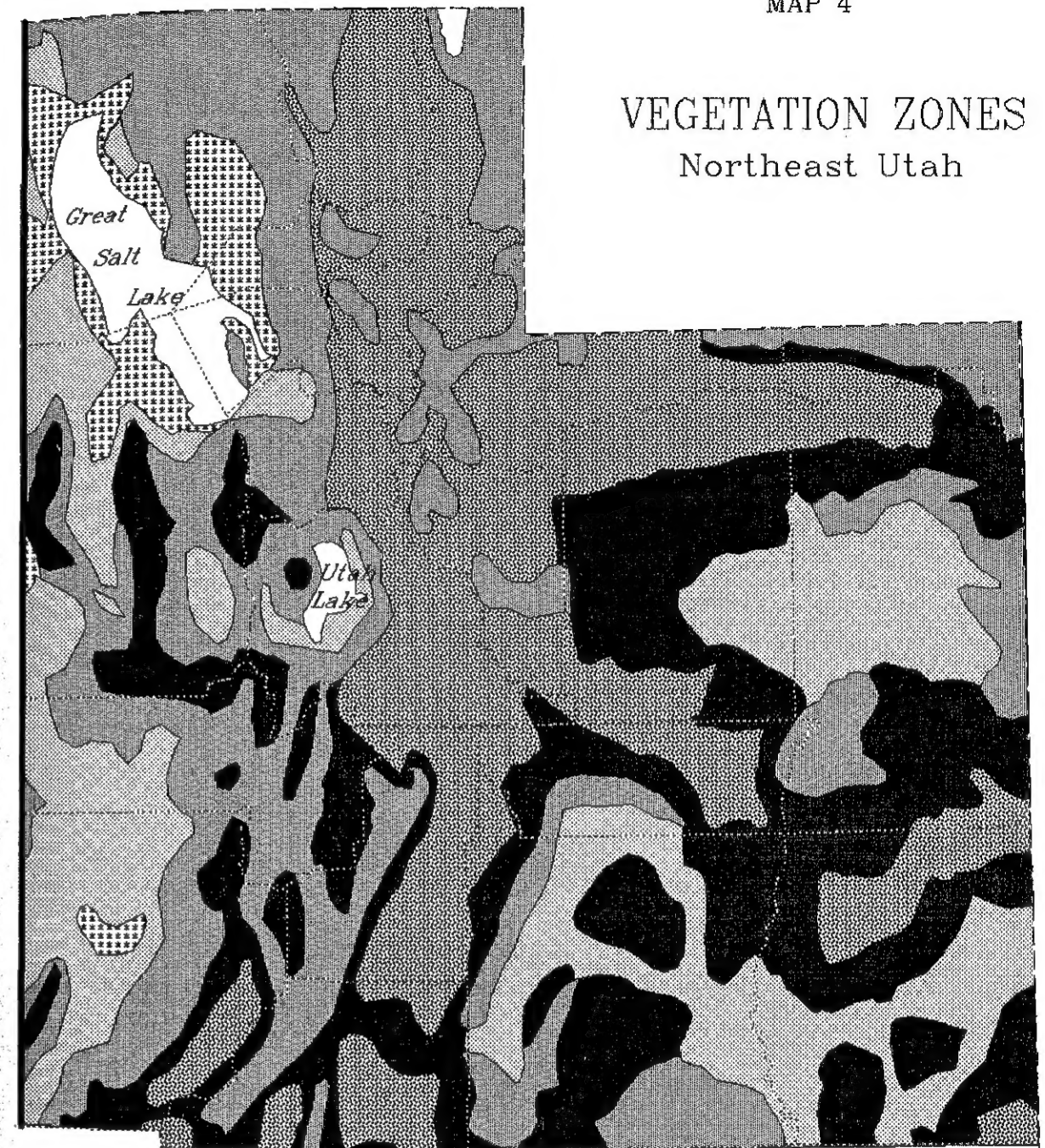
²⁶*Ibid.*, p. 347.

²⁷*Ibid.*, p. 344.

²⁸U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1869, H. Exec. Doc. No. 1, 41st Cong., 2nd sess., 1869, pp. 671, 674, Serial 141⁴

²⁹Graham, "Botanical Studies in the Uinta Basin of Utah and Colorado," pp. 43-44.

VEGETATION ZONES Northeast Utah



Source: Atlas of Utah
Cartography by: Glenn Walter

At mid-nineteenth century, boreal native grasses covered the Uinta Basin's low lands and were found in association with sage brush on the higher bench lands near the mountains and on the lower hillsides of the foothills. As the elevation increased, the plant communities changed. Juniper, cedar, and pinyon became more numerous and eventually gave way to ponderosa pine and lodgepole pine on the higher slopes. On the moist mountain locations, aspen groves were common. Spruce and fir stands dominated the high mountains giving way to bare granite peaks at timber line. In addition to the different floral zones created by differences in elevation, extensive riparian plant communities grew along the Uinta Basin waterways where cottonwoods thrived.³⁰

This mid-nineteenth century landscape was changed as the tribal population increased and the reservation lands were opened to outside homesteading. These factors meant greater numbers of people using and altering the basin's natural landscape. Farming disturbed the riparian communities, logging changed the forests and woodlands, and overgrazing reduced the stands of native grasses. Of all these practices, overgrazing was the most destructive; the basin's grasslands were continually diminished as stockmen introduced more and more sheep and cattle on grasslands throughout the entire basin.

Botanist Edward H. Graham described the effect of overgrazing on the grasslands of 1937. Graham described Lapoint, Utah, on the reservation's east boundary, as a winter range for cattle where "bud and curly sage and bunch grass" were formerly found in abundance, but "now cattle would starve there in the summer." The plants found on the basin's flats had decreased five to six times and now Russian thistle had invaded the lowlands by 1937. Graham added that former grass meadows were found in the aspens as late as the 1920s but now aspens covered bare ground because the "sheep have eaten the grass and the killing of the beaver has eliminated their natural check dams." Graham added that in 1900 grass covered the ground at Willow Springs at Tavaputs Plateau but "cattle ate the grass [and] the Sagebrush came in." He described the most dramatic loss of basin vegetation occurring at Jensen, east of the reservation, where "the now practically barren yellow hills northeast of Jensen would be so covered with waving wildflowers at Decoration Day that they were gathered by the tubsful."³¹

Because of overgrazing, common weeds and nuisance plants replaced the Uintah and Ouray Reservation native grasses and wildflowers. Russian thistle became a common invader, taking hold on the overgrazed pastures on the basin floor. On the mesas and high bench lands of the Uinta Basin, sagebrush, shadscale, rabbit brush, saltgrass, and galletagrass are common

³⁰*Ibid.*; at the turn of the century, L. H. Pammel collected over 100 grass species from the reservation. See L. H. Pammel, "The Grasses of the Uintah Mountains and Adjacent Regions," *Proceedings of the Iowa Academy of Science for 1913*, Vol. XX, pp. 133-149. See also L. H. Pammel, "Some Ecological Notes on the Vegetation of the Uintah Mountains," *Proceedings of the Iowa Academy of Sciences for 1902*, Vol. X (1903), pp. 57-68.

³¹Graham, "Botanical Studies in the Uinta Basin of Utah and Colorado," pp. 43-44.

invaders replacing the native grasses.³² Today, the change in basin vegetation is dramatic when compared to the basin plant life at the turn of the century. The basin lowlands, formerly covered with native grasses, are under irrigation from Uinta Mountain streams, and greasewood, sage, and saltgrass have invaded the poor soils without water.³³

Government policy makers urged the Ute tribesmen to imitate the outsiders' intense, high energy appropriation of the reservation lands. The result was greater production of foodstuffs at the expense of radically altering the reservation's landscape. The extensive appropriation changed the landscape's grass communities, conifer forests, and woodlands.

1.4 The Uinta Basin's Changing Forest

The Uintah and Ouray Reservation's forest ecosystem is diverse and large as trees cover most of the reservation's landscape.³⁴ Altitude is the most important factor in determining the diversity of the reservation's forest types or associations. (Tree species uniformity establishes the forest type or association.) For example, the elevation differences that exist between the timberline of the Uinta Mountains, where alpine forest species grow, to the Uinta Basin floor, where mixed desert shrubs are found, determine a large part of the forest diversity. In this way, the Uintah and Ouray Reservation forests and woodlands are typical of many Southwestern forests where altitude influences the forest type or association (See Photographic Essay 1, page 202).³⁵

There is also a direct relationship between elevation and precipitation and forest associations on the reservation. As the elevation increases, the annual precipitation increases. Therefore, at the higher elevations, where more moisture falls in the form of both rain and snow, different forest tree species are found than those which grow on the arid basin floor.³⁶

³²Wilson et al., *Soil Survey of Roosevelt-Duchesne Area, Utah*, p. 3.

³³E. A. Noble and E. C. Annes, Jr., *Reconnaissance for Uranium in the Uinta Basin of Colorado and Utah*, Publication RME-94, United States Atomic Energy Commission, January, 1957, p. 8.

³⁴Timothy E. Moriarty, *Uintah and Ouray Indian Reservation Forest Inventory Analysis*, Branch of Forest Resources Planning, Bureau of Indian Affairs, United States Department of the Interior, Portland, Oregon, 1985, p. I-1.

³⁵G. A. Pearson, "Forest Types in the Southwest as Determined by Climate and Soil," *Technical Bulletin No. 247* (Washington, D.C.: U.S. Dept. of Agriculture, 1931), p. 3.

³⁶K. T. Harper, R. A. Woodward, and K. B. McKnight, "Interrelationships among Precipitation, Vegetation, and Streamflow in the Uinta Mountains, Utah," *Encyclia*, Vol. 57 (1980), pp. 58-86; Noble and Annes, Jr., *Reconnaissance for Uranium in the Uinta Basin of Colorado and Utah*, p. 8.

As a result of elevation and moisture, four forest cover types are found on the reservation including woodland, ponderosa pine, aspen, and lodgepole pine/mixed conifer.³⁷ In addition, these forest associations roughly correspond to environmental zones; the Upper Sonoran zone is found on the basin floor and the Alpine zone is located at the timberline.³⁸

The reservation woodland association is the most extensive reservation forest type. There are two categories of woodlands on the reservation: the pinyon-juniper woodlands and the riparian woodlands. Of the two, pinyon-juniper covers the greatest reservation land area, 286,991 acres. Of this amount, 205,485 acres of the Uintah and Ouray Reservation pinyon-juniper woodland is classified as commercial woodland; only 116,144 acres is accessible leaving 89,341 acres non-accessible. A substantial portion of the pinyon-juniper, 81,506 acres, is classified as accessible non-commercial woodlands.³⁹

The Utah juniper (*Juniperus osteosperma*) is the most common juniper found on the reservation,⁴⁰ followed by Rocky Mountain juniper (*Juniperus scopulorum*) which was historically called "cedar" by local Uinta Basin residents.⁴¹ The pinyon or nut pine (*Pinus edulis*) comprises the other major species in the pinyon-juniper association.⁴² These low, spreading pinyon and juniper trees are found on the Uintah and Ouray Reservation at elevations below 8,000 feet.⁴³ These trees survive "in a wide range of climatic conditions" enduring in sites with varied rainfall, extreme temperatures, and diverse soil types which explains the divergent plant associations found with the pinyon-juniper forest type.⁴⁴

³⁷Robert P. Bizal, Uintah and Ouray Indian Reservation 1988 Forest Inventory Analysis, United States Department of the Interior, Bureau of Indian Affairs, Phoenix Area Office, 1990, pp. I-3 - I-8.

³⁸Walter P. Cottam, "Some Unusual Floristic Features of the Uintah Mountains, Utah," Proceedings of the Utah Academy of Sciences, Vol. VII, 1930, p. 48.

³⁹Bizal, Uintah and Ouray Indian Reservation 1988 Forest Inventory Analysis, p. I-7.

⁴⁰Kimball S. Erdman, "Distribution of the Native Trees of Utah," Brigham Young University Science Bulletin, Biological Series, Vol. XI, No. 3 (September, 1970), pp. 4-5.

⁴¹Graham, "Botanical Studies in the Uinta Basin of Utah and Colorado," p. 111.

⁴²Erdman, "Distribution of the Native Trees of Utah," p. 6.

⁴³Moriarty, Uintah & Ouray Indian Reservation Forest Inventory Analysis, p. I-1.

⁴⁴James R. Akerson, editor, Native American Woodland Resources: A National Overview, Branch of Forest Resources Planning, Division of Forestry, Bureau of Indian Affairs, U.S. Dept. of the Interior, Washington, D.C., 1988, p. 7.

The pinyon-juniper woodland has little value for saw wood, but has tremendous value for fuel wood. During the early decades of the twentieth century, Ute tribesmen and the surrounding non-tribal populations made heavy use of pinyon and juniper for domestic fuel.⁴⁵ In addition, juniper makes excellent fence poles and many individuals harvest the pinyon nuts for human consumption. Last of all, pinyon-juniper associations protect the reservation's watersheds and provide grazing lands for both domestic stock and wildlife.⁴⁶

There is a fragile relationship between the pinyon-juniper forest association and other vegetation associations and if that relationship is disrupted, the aggressive pinyon and juniper will invade other plant habitats.⁴⁷ Past intensive utilization of the reservation's grazing resources disrupted that balance between plant associations. As a result, the Uintah and Ouray Reservation's pinyon-juniper forest has increased in size over the last century because overgrazing encouraged the pinyon-juniper type to invade from its rocky cover, steep slope sites "onto lower elevation . . . rangelands which were previously occupied by perennial grasses and sagebrush."⁴⁸

Thus, overgrazing the native grasses encouraged pinyon and juniper to extend their range. Extensive, long-term stock grazing, in combination with an increasing number of man-caused and natural fires decreased native grass cover in the Uinta Basin.⁴⁹ Grazing and fire collectively decreased native grass forage inviting the pinyon and juniper to invade former grass-covered foothills. This extended the pinyon-juniper woodland association creating both "intra and interzonal succession changes." Pure juniper stands are in the forefront while the pinyon follows. The pinyon-juniper type moved to lower elevation rocky soils while sagebrush invaded finer soils. A pinyon-juniper/sagebrush association thrived on intermediate soils.⁵⁰ Removing the native grasses from the reservation hillsides simply encouraged the pinyon and juniper invasion both to higher elevations and to lower elevations.⁵¹

⁴⁵Ibid.

⁴⁶Pearson, "Forest Types in the Southwest as Determined by Climate and Soil," p. 6.

⁴⁷Ibid.

⁴⁸Kevin Paul Price, "Detection of Soil Erosion with Thematic Mapper (TM) Satellite Data Within Pinyon-Juniper Woodlands," Ph. D. Dissertation, University of Utah, 1987, p. 1.

⁴⁹G. D. Pickford, "The Influence of Continued Heavy Grazing and of Promiscuous Burning on Spring-Fall Ranges in Utah," Ecology, Vol. 13 (April, 1932), pp. 169-171.

⁵⁰Angus M. Woodbury, "Distribution of Pigmy Conifers in Utah and Northeastern Arizona," Ecology, Vol. 28 (April, 1947), p. 120.

⁵¹Walter P. Cottam and George Stewart, "Plant Succession as a Result of Grazing and Meadow Desiccation by Erosion Since Settlement in 1862," Journal of Forestry, Vol. 38

The pinyon-juniper proliferation created in the Uinta Basin "the world's largest piñon-juniper forest [which] lies just west of Duchesne."⁵² The growth of the pinyon-juniper woodland changed the reservation's landscape and as the pinyon-juniper increased their range, reservation range specialists developed programs which they hoped would reduce the pinyon-juniper association and encourage the growth of grasses for grazing purposes.

During the 1960s, Bureau of Indian Affairs Land Operations Division initiated a chaining program to reduce pinyon-juniper. Chaining was accomplished by attaching a long, heavy chain between two large caterpillars and then ripping through the groves, literally tearing trees out of the ground. The reservation Land Operations chained 250 acres on Bluebell Bench in 1965 and 1900 acres near Neola the following year. Small pinyon-juniper groves "were left every mile for wildlife cover." Crested wheatgrass and Russian wildrye grass were seeded. Chaining increased the land's stock carrying capacity and also made stock gathering easier. Several decades after the land was chained, small pinyon-juniper had "re-established themselves" and "big sagebrush has invaded the area."⁵³ Due to the recent evaluation of pinyon-juniper's importance as game habitat and as a source of firewood, the Bureau of Indian Affairs ended their eradication efforts.

The second woodland category is the riparian association. These are located on the valley floors along the waterways and dissect nearly every other reservation vegetation belt. The riparian woodland association is the most diverse ecosystem on the reservation. Shrubs and grasses are abundant and a variety of tree species inhabit this association. The Fremont cottonwood (*Populus fremontii*) is the most common cottonwood on the Uintah and Ouray Reservation and one of the most important deciduous species on the reserve. This tree is found along rivers and streams at elevations below 6,000 feet. Individuals often planted this species along the reservation's irrigation canals and laterals to provide shade and to provide a source of timber.⁵⁴

The narrowleaf or black cottonwood (*Populus angustifolia*) is less abundant than the Fremont cottonwood. Growing at elevations from 3,000 to 8,000 feet in narrow canyons, the

(August, 1940), pp. 624-625; for additional information, see R. F. Wagle, *Fire: Its Effects on Plant Succession and Wildlife in the Southwest* (Tucson: University of Arizona, School of Renewable Natural Resources, 1981), pp. 42-48.

⁵²Noble and Annes, Jr., *Reconnaissance for Uranium in the Uinta Basin of Colorado and Utah*, p. 8.

⁵³Perry Baker, Superintendent, Uintah and Ouray Agency, to Richmond L. Clow, December 13, 1991 [letter in possession of T & R, Inc.].

⁵⁴Roland L. Barger and Peter L. Ffolliott, "Prospects for Cottonwood Utilization in Arizona," *Progressive Agriculture in Arizona*, Vol. 23, No. 3 (1971), p. 14.

narrowleaf cottonwood is found in either pure stands or mixed stands in association with willows, maples, alders, and birch.⁵⁵

Both cottonwood species "are moderately drought resistant" and survived by thriving on flood plains which provided moist soil for seed germination and feeder roots. The construction of dams along the Duchesne River and its tributaries as well as the building of Flaming Gorge Reservoir collectively ended spring floods and reduced "the resultant mucky wet seed bed . . . essential to the establishment of cottonwood."⁵⁶ In addition, cottonwoods suffered numerous diseases including cottonwood rot, bacterial limb galls, and root rot which in conjunction with the declining moist seed beds reduced the species's range.⁵⁷

The riparian zone was altered more than any other on the reservation through intensive utilization. Farming operations commenced near reservation waterways. Both the cutting of cottonwood and the loss of seed beds reduced the species. Russian olive trees were introduced by the Uintah and Ouray Reservation Branch of Land Operations in 1955 in an effort to increase tree species in the riparian zones, to provide windbreaks, and to reduce soil erosion. That same year, the Navajo Agency sent 8,000 Russian olive seedlings to the Uintah and Ouray Reservation. Most of the trees from this shipment were planted on the Hill Creek drainage. The following year, the Bureau of Indian Affairs provided 3,000 trees that were planted on Cottonwood Draw. This latter project was done in accordance with an agreement made between the Bureau of Reclamation, the Bureau of Indian Affairs, and the Moon Lake Water Users Association.⁵⁸

Ponderosa pine is the second forest association and lies above the pinyon-juniper forest type. The ponderosa pine, also called the western yellow pine (*Pinus ponderosa*), is the most abundant conifer found in the Utah mountains between 6,500 to 9,500 feet in elevation and "it is common at moderate elevations throughout the Uinta Basin."⁵⁹ The reservation ponderosa pine belt on the south facing Uinta Mountains is generally found on the glacial soils and begins at 7,000 to 8,000 feet, extending upward to 9,000 feet. Some ponderosa stands are located on

⁵⁵Erdman, "Distribution of the Native Trees of Utah," pp. 16-17.

⁵⁶Roy H. Degler, "Forest Operating Plan on the Uintah and Ouray Indian Reservation, Utah," June 11, 1970, p. III-A-2-1, Branch of Forestry, Bureau of Indian Affairs, Phoenix Area Office, Phoenix, Arizona.

⁵⁷Assistant Area Director to M. L. Schwartz, November 4, 1964, Research and Silviculture, 339.9, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

⁵⁸Annual Report, 1955, Soil Conservation Operations, Branch of Land Operations, Uintah and Ouray Agency, Fort Duchesne, Utah, p. 32, Stanley D. Lyman Papers, Folder 18-19, Box 17, Special Collections, University of Utah, Salt Lake City.

⁵⁹Erdman, "Distribution of the Native Trees of Utah," p. 7.

the north facing slopes of the Tavaputs Plateau along the upper tributaries of Hill Creek. These latter trees are not found in pure stands but are more intermixed with other species.⁶⁰

The Uinta Mountains ponderosa pine association remains one of the most important commercial forest types on the reservation. Most of the reservation commercial logging activities have occurred in the ponderosa pine belt; this practice continues today. Uneven-aged, fire-scarred trees comprise the ponderosa stand. This is not a pure forest type since lodgepole pine and aspen are often found with the ponderosa pine. The commercial ponderosa type covers 7,549 acres, approximately thirty percent of the reservation's commercial forests.⁶¹

The third forest association is the aspen type and can be found at the edge of the ponderosa pine association. The aspen (*Populus tremuloides*) growing on the south slopes of the Uinta Mountains are generally found 8,000 to 8,700 feet and form a nearly continuous zone. Isolated aspen stands extend below and above these altitudinal boundaries; these isolated stands are found in cool, moist canyons and on exposed slopes when climatic and soil conditions are favorable. On the north facing slopes of the Tavaputs Plateau, the aspen type is found at lower elevations but not in a distinct association free from other species.⁶²

Today the reservation aspen forest type encompasses 4,971 acres.⁶³ In past years, the aspen acreage was probably smaller because of fire. Aspen is a fire pioneer species and increases its range by invading ponderosa pine and lodgepole pine stands after a fire. For example, Edward H. Graham, in his 1937 Uinta Basin botany study, observed "fallen, charred" ponderosa pine in the lower elevations of the Uinta Mountains aspen stands, and aspen growing at a higher elevation in a burned lodgepole stand.⁶⁴ As a result of fire, aspen is invading the ponderosa pine belt and lodgepole pine/mixed conifer belt.

The last forest cover type is the lodgepole pine/mixed conifer association which lies above the aspen belt. Cooler temperatures and greater precipitation are found at this high elevation. Today, 12,337 acres of commercial lodgepole pine/mixed conifer are standing on the reservation. Since these stands are found in steep and broken terrain, forty-three percent of this

⁶⁰Graham, "Botanical Studies in the Uinta Basin of Utah and Colorado," pp. 47-49.

⁶¹Bizal, Uintah and Ouray Indian Reservation 1988 Forest Inventory Analysis, p. I-6.

⁶²Graham, "Botanical Studies in the Uinta Basin of Utah and Colorado," p. 51.

⁶³Bizal, Uintah and Ouray Indian Reservation 1988 Forest Inventory, p. I-6.

⁶⁴Graham, "Botanical Studies in the Uinta Basin of Utah and Colorado," pp. 49, 51.

cover type is growing on terrain that is "inoperable," further reducing the reservation's commercial acreage.⁶⁵

Lodgepole pine, the dominant species in this cover type, "account for 77 percent of total basal area."⁶⁶ From 9,000 to 10,000 feet in elevation, a thick stand of lodgepole (*Pinus contorta*) covers hundreds of miles in the Uinta Mountains.⁶⁷ The lodgepole pine is a pre-climax forest "characterized by uniform thick stands."⁶⁸ At higher elevations, from 10,000 feet to the Uinta Mountain timber line at 11,000 feet above sea level, lodgepole pine has slowly invaded this high elevation of mixed conifers, particularly after a fire.⁶⁹ Engelmann spruce (*Picea engelmanni*), Douglas-fir (*Pseudotsuga menziesii*), alpine fir (*Abies lasiocarpa*) and ponderosa pine compose only fifteen percent of this forest cover type. Aspen is found on the remaining eight percent.⁷⁰

The Uintah and Ouray Reservation's small commercial conifer forests produced small timber harvests when compared to other large timber producing reservations of the Southwest and the Northwest. Nonetheless, because they were the tribe's most abundant resource the extensive woodlands and limited conifer forests became multiple use lands as the tribe and Bureau of Indian Affairs personnel were forced to use the available timber for many different purposes.

During the past century, both tribesmen and non-tribesmen have logged the forests, grazed their stock on the timbered lands, and hunted wildlife in the woodlands. Of all these, grazing is most significant; most of the Uinta Basin's forest lands are used for grazing purposes. Stock grazing on the lower elevations increases the pinyon-juniper association. On the higher elevations of the conifer forests, browsing stock damages the young sprouts of the Douglas-fir while the Engelmann spruce seedlings are often trampled. Also, grazing clear-cut or burned lands inflicts greater environmental damage by encouraging erosion.⁷¹ This intensive utilization

⁶⁵Bizal, Uintah and Ouray Indian Reservation 1988 Forest Inventory Analysis, pp. I-6, III-25.

⁶⁶*Ibid.*, p. I-8.

⁶⁷Graham, "Botanical Studies in the Uinta Basin of Utah and Colorado," p. 52.

⁶⁸Cottam, "Some Unusual Floristic Features of the Uintah Mountains, Utah," p. 48.

⁶⁹Graham, "Botanical Studies in the Uinta Basin of Utah and Colorado," pp. 52-53.

⁷⁰Bizal, Uintah and Ouray Indian Reservation 1988 Forest Inventory Analysis, pp. I-8, III-25.

⁷¹E. R. Hodson, "Some Present Day Problems in Forestry," Transactions of the Utah Academy of Science, Vol. I (1908-1917), p. 50.

of the reservation conifer timbered lands increased the range of the aspen and the lodgepole and decreased the range of the ponderosa pine.

1.5 Local Timber Markets

The Uintah and Ouray Reservation forests provide a limited, but valuable timber source for local consumption. By supplying local markets, the tribe has furnished important wood products to non-tribal industries, thus assisting in the economic development of the Uinta Basin. For example, the Bureau of Indian Affairs reported that from 1861 until 1974 "It is estimated that the building of the army post, ranch homes, towns and irrigation [sic] structures was responsible for cutting approximately 30 million board feet of Ponderosa Pine."⁷²

Despite the value of the reservation's timber to the Uinta Basin economy, the local timber market suffers from the same difficulties that affect Utah's entire wood products industry. On the surface, it would appear that an arid region with minimal stands of marketable timber would enable timber owners to develop an exceptional local timber industry; but the contrary is often true.

Utah historically consumed more timber than it produced, making the state a timber importer, not a timber exporter.⁷³ In theory, a shortage of local timber would create the ideal circumstance necessary to obtain maximum profits from reservation timber resources, but several other factors influenced the reservation's (and the entire Uinta Basin) timber marketability.

The reservation timber, like the reservation itself, is located a great distance from markets. Without adequate transportation facilities to larger markets, Uintah and Ouray timber harvests were forced to remain in the local community, unable to compete in larger markets. In addition, the absence of local transportation facilities increased the cost of shipping reservation timber to larger markets, making Ute timber less competitive with imported wood products.⁷⁴

⁷²U.S. Dept. of the Interior, Bureau of Indian Affairs, The Uintah and Ouray Reservation, Its Resources and Development Potential, p. 62.

⁷³Greer et al., Atlas of Utah, p. 205. Bentham Fabian recorded that trade imbalance existed between imported and exported timber as early as 1872. For a history of the early timber consumption in Utah, see Bentham Fabian, The Resources of Utah (Salt Lake City: Salt Lake Tribune Printing and Publishing Company, 1873), pp.23-24. U.S. Forest Service Intermountain Region, "Forest and Range Resources of Utah and Their Protection and Use," United States Department of Agriculture, Miscellaneous Publications, Vol. 86-103, No. 90, Washington, D.C., 1930, pp. 60-61.

⁷⁴U.S. Department of Agriculture, Forest Service, Intermountain Region, "Forest and Range Resources of Utah and Their Protection and Use," United States Department of Agriculture, Miscellaneous Publications, Vol. 86-103, No. 90, Washington, D. C., 1930, pp. 60-61.

On the other hand, the construction of railroads into Utah's major cities after the Civil War introduced outside lumber producing regions to local Utah markets but did not facilitate exports.⁷⁵ Initially, Great Lakes states and later the Pacific Northwest supplied Utah markets. The latter region's timber producers installed efficient, large scale machinery enabling them to export large volumes of finished wood products to Utah, thus eliminating local mills from participating in the larger state market.⁷⁶

The Utah lumber market also suffered because of the isolated and inaccessible timber stands. For example, the better grades of trees were often remote, standing in rough, rugged terrain adding to the cost of logging reservation trees and prohibiting the marketing of tribal lumber on open markets.⁷⁷

Also, the scarcity of trees created a situation where there was an absence of large continuous forest stands which were conducive to extensive, sustainable cutting. Without large stands to create a continuous even annual harvest, local mills experienced production fluctuations, thereby preventing the region's timber industry from ever becoming more than a local enterprise.⁷⁸

Last of all, the reservation timber, like that cut from most of Utah, produced only rough lumber grades, which also eliminated local mills from competing in the finished wood products market. As a result, local basin sawmills never produced high grade lumber. Even early Utah boosters recognized this limitation. As early as 1882, the local trees were described as rough timber and even "The best trees furnish lumber not technically clear, but the knots are held so fast that they are no real detriment, and the lumber is practically clear."⁷⁹ Uinta Basin timber consumers used lodgepole pine for finish work, out of necessity, describing lodgepole pine with few knots as "birdseye pine."⁸⁰

⁷⁵Clarence F. Kopstian, "Making the Forests of Utah a Permanent Resource," Transactions of the Utah Academy of Sciences, Vol. II, 1918-1921, pp. 178-179.

⁷⁶U.S. Department of Agriculture, Forest Service, Intermountain Region, Forest and Range Resources of Utah and Their Protection and Use, pp. 60-61.

⁷⁷Ibid.

⁷⁸Hodson, "Some Present Day Problems in Forestry," p. 46.

⁷⁹Ovando James Hollister, The Resources and Attractions of Utah (Salt Lake City: A. Zeelandelaar, 1882), p. 18.

⁸⁰William Z. Terry, "Native Trees of Utah and the Uses Made of Them by the Early Settlers," Proceedings of the Utah Academy of Sciences, Arts and Letters, Vol. XVII (1940), p. 115.

Utah is a state with few commercial forests making the state an importer of wood products. As a result, local wood suppliers and manufacturers must compete with the cheaper, better, imported wood products. To do so, local wood suppliers, such as the Uintah and Ouray Reservation, produce specialty wood products such as mine props and fence poles and posts.

1.6 Conclusion

The local lumber markets were as limited as the volume and quality of the reservation's commercial forests. Despite those limitations, lumber from the Uintah and Ouray Reservation provided essential support for the region's economic development providing building materials for homes, barns, fences, and irrigation structures. Despite the overall importance of timber to community development, the low volume of available conifers for logging limited the reservation's forestry staff and their ability to conduct conservation activities. On the other hand, the extensive commercial woodlands provide the tribesmen with fuel for domestic purposes and fences and poles for the livestock operations.

A century of intensive use of the reservation's forests, grasslands, and woodlands changed the landscape. Pinyon and juniper increased their range while grasslands decreased their territory. The changing landscape also challenged the tribal and reservation forestry and range managers to continue to improve utilization methods to preserve tribal resources, while continuing to pursue the historical uses of the forest products created few options for contemporary tribal planners. Part of this problem stems from the white settlement patterns in the Uinta Basin and the United States policies which governed reservation land use.

Chapter 2

Creation and Administration of The Uintah and Ouray Indian Reservation, 1861-1948

2.1 Introduction

The creation of the Uintah and Ouray Reservation in 1861, and the subsequent reduction of the reservation's land mass, provide an explanation for the small acreage of conifer forests standing on the reservation today. White intrusion into Northern Ute country forced the United States to organize tribal reservations for several Ute bands. Between 1750 and 1850, missionaries, traders, trappers, and farmers entered the land of the Utes. As their numbers rapidly increased after 1850, the settlers, ranchers, and miners forced the Utes to cede extensive parcels of their lands, relocate, and confine themselves to restricted reservations.¹

Beginning in 1880, outsiders pressured congressional leaders to open Ute reserved lands to non-Indian entry. Congress and the Presidents responded favorably to those demands, and through policies of forced agreements, tribal relocation, allotment in severalty, and the creation of national forests, the federal government reduced Ute lands in Colorado and Utah from over 20 million acres in the 1870s to under 2 million in 1986.² The loss of forested lands on the Uintah and Ouray Reservation began when Congress opened the Ouray lands of the reservation to homesteading in 1898 and the Uintah section in 1905. The last reduction also severed one million acres of high Uinta Mountain timbered lands from the reservation when President Theodore Roosevelt placed these lands under the jurisdiction of the United States Forest Service.³

¹Mormons constituted the overwhelming majority of immigrant settlers in Utah and frequently settled as a colony rather than as individuals. "Mormons," "settlers," and "immigrants" are used interchangeably in the documents. "Settler" and "immigrant" will be used except where a specific Mormon issue is discussed.

²Donald Callaway, Joel Janetski, and Omer C. Stewart, "Ute," Handbook of North American Indians, edited by Warren L. D'Azevedo, Vol. II (Washington, D.C.: Smithsonian Institute, 1986), pp. 355-357. The Colorado Utes reserved about 18,000,000 acres for the Southern Ute and Ute Mountain Ute in 1868. In 1984 Southern Ute tribal lands stood at 305,000 acres and Ute Mountain lands stood at 533,000 acres. In Utah, the Uintah Reservation had been reduced from 2,039,400 acres in the 1870s to about 1 million acres, and a considerable amount of land was tied up in heirship disputes.

³S. Lyman Tyler, "The Spaniard and the Ute," Utah Historical Quarterly, Vol. 22 (October, 1954), pp. 348-349; Callaway et al., "Ute," pp. 338-340; Floyd A. O'Neil and Kathryn L. MacKay, A History of the Uintah-Ouray Ute Lands, Occasional Paper No. 10 (Salt Lake City: American West Center, University of Utah, 1979), pp. 2-4. In the seventeenth and early

Because of this timber loss, Uintah and Ouray tribesmen, in cooperation with the Bureau of Indian Affairs, planned and implemented reservation forestry programs in an effort to secure and develop their greatly diminished resources. The task was extremely difficult, for the Bureau of Indian Affairs administered the Uintah and Ouray Reservation through shifting federal Indian policies, and the Utes were continuously confronted by non-Indian ranchers, miners, and farmers who coveted the Utes' remaining land, water, and forest resources.⁴

2.2 The Dominguez and Escalante Expedition, 1776

White intrusion into Ute country was a prelude to the eventual reduction of their forest resources. At mid-eighteenth century, Ute Country extended from the crest of the Rocky Mountains west to the Great Basin Desert, north from the San Juan River to the Uinta Mountains.⁴ Although Spain claimed Ute Country as part of its colonial empire, the Spanish had not extended administrative rule beyond Abiquiu in the Chama Valley in what is now northwest New Mexico. The early Spanish colonists, as well as the English and French colonists far to the east, believed Ute Country to be a land of mystery.⁵

The Spanish began solving the puzzle in 1776 when Fray Silvestre Velez de Escalante traversed northeast Utah and wrote the earliest known description of the land which eventually became the Uintah and Ouray Reservation. Escalante, with Fray Francisco Antanasio Dominguez and ten companions, entered what is now the state of Utah east of the Uinta Basin on September 11, 1776. These are thought to be the first white men to enter the Uinta Basin. The expedition was seeking a northern route from Santa Fe, New Mexico, to Monterey, California, since the direct east-west route was blocked by the Apache along the Gila River and by the Hopi in western New Mexico.

The expedition departed in a northwest direction from Santa Fe, New Mexico, on July 29, 1776. When Escalante heard of Indians living in permanent villages, he decided to make

eighteenth centuries the Spanish included the Ute, Southern Paiute, and Chemehuevi as "Yuta Indians." After 1750, however, the designation "Yuta Indian" became more restricted to those Indians living in what is today western Colorado and eastern Utah. Before 1750 the Yuta also had ranged over a more extensive area east of the Rocky Mountains and south of the San Juan River, but under pressure from the Apache and then the Comanche they withdrew to the area west of the Continental Divide.

⁴Tyler, "The Spaniard and the Ute," pp. 344-346; Callaway et al., "Ute," pp. 337-340.

⁵Floyd A. O'Neil, "The Utes, Southern Paiutes, and Gosiute," in Helen Z. Papanikolas, editor, *The Peoples of Utah* (Salt Lake City: Utah State Historical Society, 1976), pp. 30-31; Charles S. Peterson, *Utah: A Bicentennial History* (New York: W. W. Norton, 1977), pp. 8-9. There were trading expeditions, including the Rivera Expedition of 1765, into Ute Country before 1775, but they produced little information regarding the region. The Utes had also traded with the Pueblos at Taos before the Spanish arrived.

a detour to visit the Sabuaganas and the Timpanogots.⁶ He saw in such a journey an opportunity to evangelize sedentary Indians and to secure assistance for the journey to California. Through this extended planned detour, the Escalante and Dominguez Expedition entered the Uinta Basin and met the Timpanogots, a principal Ute band that would later settle on the Uintah Reservation.⁷

Led by a Timpanogot guide, whom Escalante named Silvestre, the expedition traveled west through the Uinta Basin to Utah Lake [Lake of the Timpanogots] between September 16 and 23. Escalante noted that there was "plenty of good land for crops to support three good settlements, with opportunities for irrigation, beautiful cottonwood groves, good pastures, with timber and firewood nearby," and all these resources were close to the junction of the Uinta and Duchesne Rivers.⁸ Silvestre informed Escalante that some Timpanogots had lived in this valley, but they had withdrawn, for they feared the Comanche.⁹ Throughout the Uinta Basin, Escalante recorded the existence of abundant pastures, but he wrote little concerning the timber.

Escalante envisioned a Spanish outpost in the Utah Lake area west of the Uinta Basin "for as many pueblos of Indians as there are in New Mexico."¹⁰ Bernardo Miera y Pacheco, the expedition's astronomer and cartographer, agreed. "With three presidios, together with three

⁶Julian H. Steward, "Native Components of the White River Ute Indians," Supplement to "Aboriginal and Historic Groups of the Ute Indians of Utah," Indian Claims Commission, Docket No. 44 (Clearwater Publishing Company, Micro), pp. 2-4; Calloway et al., "Ute," p. 366. Escalante located the Sabuaganas northeast of Grand Junction, Colorado. The Sabuaganas disappeared as a distinct band after the Escalante visit. They apparently joined with the Yampa or Grand River Utes, who later merged with the Utes of the White River Agency and became known as the White River Utes. The Timpanogots were sedentary Utes living in the Utah Lake area west of the Wasatch Mountains.

⁷Herbert E. Bolton, "Pageant in the Wilderness: The Story of the Escalante Expedition to the Interior Basin, 1776, Including the Diary and Itinerary of Father Escalante Translated and Annotated," *Utah Historical Quarterly*, Vol. 18, No. 1-4 (1950), pp. 41-43; Walter Briggs, *Without Noise of Arms: The 1776 Dominguez-Escalante Search for a Route from Santa Fe to Monterey* (Flagstaff: Northland Press, 1976), pp. 73-89.

⁸Bolton, "Pageant in the Wilderness," pp. 173-174.

⁹Fray Silvestre Velez de Escalante, "Diary and Itinerary," in Bolton, "Pageant in the Wilderness," pp. 175-176; Julian H. Steward, "Native Components of the White River Ute Indians," Supplement to "Aboriginal and Historic Groups of the Ute Indians of Utah," Indian Claims Commission, Docket No. 44 (Clearwater Publishing Company, Micro, 1973), pp. 17-18. Steward believed that no native settlements existed in the Uinta Basin in 1776, although there were Utes in the area when the American trappers arrived in the 1820s.

¹⁰Escalante, "Diary and Itinerary," pp. 185-186.

settlements of Spaniards, the door will be open to a New Empire which may be explored and colonized," he reported to the King of Spain. Miera believed that the area was "capable of maintaining a settlement with as many people as Mexico City," and the mountains to the east were "very fertile, having many rivers and springs, good pastures for raising all kinds of cattle and horses, timber, including royal and other pines, and lands for the planting of all kinds of grain in their valleys."¹¹

Escalante discovered a native mission field and secured assistance to continue his journey to Monterey. But he never reached Monterey, and the Spanish missionaries did not return to the Lake Country of the Timpanogots. As the expedition traveled south, Escalante realized that they had little chance of crossing the mountains to the west and reaching Monterey before the snow closed the passes. On October 8, he decided to return to Santa Fe rather than risk death in the mountains. He hoped that he would also thereby be able to return at an earlier date to the Timpanogots. The expedition returned to Santa Fe on January 2, 1777.¹²

2.3 The Fur Trapper Era

Not Franciscan friars, but fur trappers and traders, a "reckless breed of men" with a far different mission, continued the exploration of the Uinta Basin and introduced the Utes to the trappings of civilization.¹³ Although Spanish traders and gold seekers explored north into Ute Country as far as the Gunnison River, American trappers first explored and exploited the upper reaches of the Colorado River and the Uinta Basin.¹⁴

William Ashley, a St. Louis entrepreneur and originator of the rendezvous, was the dominant trader in the Uinta Basin. He not only recruited and outfitted the trappers that he sent

¹¹Bernardo Miera y Pacheco, "Miera's Report to the King of Spain," October 26, 1777, in Bolton, "Pageant in the Wilderness", pp. 244-245.

¹²Escalante, "Diary and Itinerary," pp. 193-196, 239.

¹³Robert Glass Cleland, This Reckless Breed of Men: The Trappers and Fur Traders of the Southwest (New York: Alfred A. Knopf, 1963), pp. 3-9; Callaway et al., "Ute," p. 339. The five pre-reservation western bands were the Uintah, Timpanogots, Pahvant, Sanpits, and Moanunts. With their removal to reservations the Utes were identified as "Northern" and "Southern" Utes. The Northern Utes, those located on the Uintah-Ouray Reservation, are descendants of the Uncompahgre, Parusanuch, Yampa, Uintah, Timpanogots, Pahvant, Sandpits, and Moanunts.

¹⁴Harrison Clifford Dale, The Ashley-Smith Explorations and the Discovery of a Central Route to the Pacific, 1822-1829 (Cleveland: The Arthur H. Clark Company, 1918), pp. 46-47; Joseph J. Hill, "Spanish and Mexican Exploration and Trade Northwest from New Mexico into the Great Basin," Utah Historical Quarterly 3 (January, 1930), p. 3.

into the wilderness, he joined them in the exploration of the region.¹⁵ Among the well-known Ashley men who explored and hunted in the Uinta Basin were Jedediah S. Smith, Jim Bridger, Thomas Fitzpatrick, Andrew Henry, James Clyman, and the Sublette Brothers.¹⁶

Though Ashley's men dominated the region's fur trade, they were not the only white trappers in the region. Etienne Provost led a New Mexico party of trappers into the Provo River country in 1824. Hudson's Bay Company trappers competed with the Americans throughout the mountains surrounding the Great Basin and established a fort on the Uinta River.¹⁷

Although he was a latecomer to the Uinta Basin, Antoine Robidoux ranks among the most important of the region's trappers and traders because he built permanent posts. Robidoux was known among the Santa Fe traders as early as 1824 and apparently worked out of Taos. In 1833, Kit Carson, who was delivering goods to trappers for Taos traders, met Robidoux and some twenty men trading and trapping at the mouth of the "Wintey" (Uinta) River.¹⁸ At that location, Robidoux was building a fort, where he traded with Utes for the next decade. At the same time, he constructed a second trading post on the Gunnison River below the mouth of the Uncompahgre River.¹⁹

From these two posts, Robidoux sent trappers to the Gila, the Rio Grande del Norte, and the upper tributaries of the Colorado. He also conducted a modest trade in dressed skins and hides with the Shoshone and Ute bands. In 1844, Ute tribesmen attacked the Uinta Basin trading post, burned the structure, killed the men, and captured the few women. Robidoux survived the attack because he was away from the post at the time, but he retired from the fur trade following that loss.²⁰

Through their reports, journals, and tales of adventure, the trappers and traders outlined the geography, geology, and ethnology of Ute Country. They introduced the Utes to the

¹⁵Dale, The Ashley-Smith Explorations, pp. 144-151.

¹⁶Cleland, This Reckless Breed of Men, pp. 56-57; Charles S. Peterson, Utah: A Bicentennial History (New York: W. W. Norton, 1977), pp.13-14.

¹⁷Dale, The Ashley-Smith Explorations, p. 152; Peterson, Utah, pp. 14-15.

¹⁸Joseph J. Hill, "Antoine Robidoux, Kingpin in the Colorado River Fur Trade, 1824-1844," The Colorado Magazine, Vol. 7, No. 4 (July, 1930), p. 127.

¹⁹Ibid., p. 128.

²⁰Ibid., pp.131-132. Following the destruction of the Uinta Basin post in 1844, Robidoux returned to St. Joseph, Missouri. In 1846 he was hired as a guide and interpreter by Colonel Stephen W. Kearny for his march through New Mexico to California with the Army of the West.

"American" economic and social order through their commercial trapping, distribution of trade goods, attitudes, and behavior toward the native people. On the other hand, the trappers left few marks upon the land in the Uinta Basin. They were harbingers, however, of a wave of immigrants who not only changed the face of the land, but also competed with the Utes for the country's resources and contested the tribesmen for possession of the land itself.

2.4 Mormon Settlement of Utah and Relations with Tribes

"This is the place," Brigham Young was claimed to have said when the first Mormon immigrants entered the Salt Lake Valley on July 23-24, 1847. He may not have identified the location in those words, but he certainly envisioned the Salt Lake Valley as the location of the Mormon Zion. Within days, Young described to the people how the land would be distributed and governed.²¹

Initially the Mormons remained near Salt Lake and the lands to the north. Mormon exploring parties examined the Utah Lake area, but Brigham Young decided to delay any settlement there. The wait was short-lived. In January, 1849, Mormon officials took steps to establish a colony at Utah Lake.²²

Local tribesmen resisted this intrusion and the Mormons resorted to force. They killed four natives and thereby initiated a series of mutual reprisals that continued for over a decade. In spite of tribal opposition and resistance, the Mormons persisted in sending their colonists onto the tribesmen's land.

By late in 1849, tensions with the tribes were so high that Mormon leaders sought advice from Captain Howard Stansbury, who was surveying the area for the United States Government. When Stansbury recommended "discipline," the Mormons sent a detachment of their militia, the Nauvoo Legion, against the Indians in February, 1850. Forty Indians and one Mormon were killed. A tense truce ensued.²³

On September 9, 1850, President Millard Fillmore signed the bill creating Utah Territory. The newly appointed territorial governor Brigham Young, who also was *ex officio* superintendent of Indian Affairs for the Utah Superintendency, recommended that Indian title

²¹Nels Anderson, *Desert Saints: The Mormon Frontier in Utah* (Chicago: University of Chicago Press, 1966), pp. 67-71, 77. Technically, they were on land claimed by Mexico. Mike Goodyear, a trapper and trader, was the only white person who had settled in the area. The Mormons purchased his land, livestock, and improvements, as they did not want a gentile living among them.

²²Anderson, *Desert Saints*, p. 101.

²³*Ibid.*, pp. 101-102.

to the land be extinguished and that tribesmen be moved to the northern mountains.²⁴ Although mission to the Indians was a significant element of Mormon theology, that mission was secondary to creating communities for converts.

When Utah's first Indian agent, John H. Holeman, arrived in Utah Territory in 1851, he found "much excitement among the Indians, in consequence of the whites settling and taking possession of their country, driving off and killing their game, and in some instances driving off the Indians themselves." The Mormons' settlement program was creating tremendous dissatisfaction among the Indians, who sought revenge by attacking immigrants. Holeman urged the Indian Office to conclude a treaty with the Utah Indians immediately to protect their lands from further encroachment.²⁵

On September 3, 1852, Governor Young called the Shoshone and Ute tribes to attend a general council at Salt Lake City. Young reported to the Commissioner of Indian Affairs Luke Lea that the Utes answered "joyfully" in the affirmative when asked if they desired friendship with the Shoshones and whites and that they had no objections to the Mormons settling on their lands.²⁶

Young was less than candid with the Commissioner of Indian Affairs, because in reality, the Utes were intensely dissatisfied with the continuing Mormon encroachment upon their lands and the loss of income from horse trading. Their discontentment erupted the following year in the Walker War.²⁷ Chief Walker, the Ute leader, was well-known among the Mormons and the old traders of Utah. He had long traded in slaves, furs, and horses along the Old Spanish

²⁴*Ibid.*, p. 117; Robert A. Trennert, Jr., *Alternative to Extinction: Federal Indian Policy and the Beginnings of the Reservation System* (Philadelphia: Temple University Press, 1975), pp. 145-147. Brigham Young was well aware of the problem of settling on unceded Indian land. The Mormons' winter camp in 1846-1847 was illegally located on Omaha lands, and Young had been forced to seek Presidential intervention to prevent eviction.

²⁵U. S. Cong., House, *Commissioner of Indian Affairs, Annual Report, 1851*, H. Exec. Doc. No. 2, 32d Cong., 1st sess., December 2, 1851, pp. 445-446, Serial 636.

²⁶U. S. Cong., Senate, *Commissioner of Indian Affairs, Annual Report, 1852*, S. Exec. Doc. No. 1, 32d Cong., 2d sess., 1852, pp. 437-438, Serial 658.

²⁷Howard A. Christy, "The Walker War: Defense and Conciliation as Strategy," *Utah Historical Quarterly* Vol. 47, No. 4 (Fall, 1979), p. 396. Christy claimed that "renewed efforts too stifle the [Utah's] slave trade precipitated the Walker War." While the slave trade played a role in the conflict, the persistent white intrusion upon the Utes' lands was clearly the source of the conflict.

Trail. Young portrayed Walker as an agitator for evil among the peaceful Indians.²⁸ While Walker may have had a personal interest in creating unrest, the root cause of the conflict was the continual displacement of the Ute Indians from their lands by the settlers.²⁹

The Walker War continued into the spring of 1854. Eventually, Chief Walker sought an agreement to extinguish Indian title providing he retained the privilege to continue his trading activities, including his trade in slaves. Territorial Governor Young and Chief Walker agreed to end hostilities on May 11, 1854, but they could not agree on land cessions and slavery issues.³⁰

Tension between the Mormons and the Indians remained high. The settlers complained that the tribesmen killed settlers' livestock and turned their Indian ponies into settlers' fields. The Utes responded that the territory's citizens were using seines and nets for fishing "at Utah Lake and Provo River" to the Indians' disadvantage.³¹ In 1855, high water prevented the Utes from taking fish by trapping and shooting with a bow and arrow. To help Utes, Agent George Armstrong negotiated an agreement between the parties; the whites fished for the Utes with their nets and the settlers would restrict their fishing. The agreement only eased tensions.³²

In an effort to improve relations between the settlers and the Utes, Agent Garland Hurt, who came to Utah in 1855, established three Indian farms at Spanish Fork, San Pete, and Corn Creek all south of Salt Lake City.³³ He believed that by designating these tracts as permanent

²⁸Peterson, *Utah*, pp. 10-11; U. S. Cong., House, *Commissioner of Indian Affairs, Annual Report, 1853*, H. Exec. Doc. No. 1, 33d Cong., 1st sess., December 6, 1853, pp. 441-442, Serial 710.

²⁹For an examination of this ecological displacement see, Barbara P. Smaby, "The Mormons and the Indians: Conflicting Ecological Systems in the Great Basin," *American Studies*, Vol. 16 (Spring, 1975), pp. 35-48.

³⁰Christy, "The Walker War," pp. 417-418; U. S. Cong., House, *Commissioner of Indian Affairs, Annual Report, 1854*, H. Exec. Doc. No. 1, 33d Cong., 2d sess., 1854, p. 222, Serial 777; Trennert, *Alternative to Extinction*, pp. 61-93. Commissioner Manypenny feared that the Indians would be exterminated if no agreement to settle the land issue was concluded.

³¹U. S. Cong., Senate, *Commissioner of Indian Affairs, Annual Report, 1855*, S. Exec. Doc. No. 1, 34th Cong., 1st sess., December 31, 1855, p. 522, Serial 810.

³²U. S. Cong., Senate, *Commissioner of Indian Affairs, Annual Report, 1855*, S. Exec. Doc. No. 1, 34th Cong., 1st sess., 1855, pp. 522-523, Serial 810.

³³U. S. Cong., Senate, *Commissioner of Indian Affairs, Annual Report, 1856*, S. Exec. Doc. No. 5, 34th Cong., 3d sess., 1856, pp. 782-783, Serial 875. Since Commissioner Manypenny had not officially sanctioned the creation of the Indian farms, he withheld approval

homes for the tribesmen he had prevented open warfare.³⁴ He was mistaken. While the establishment of the farms may have brought temporary peace, settlers opposed locating the small tribal reservations in the midst of the non-Indian farming lands. The settlers believed that relocation of the Indians on tracts away from Mormon settlements was the only acceptable solution for ending the Indian-White conflicts in the Utah Valley.³⁵

2.5 Creation of the Uintah Reservation

The Ute bands who lived in the Uinta Basin refused to go to the Indian farms established by Agent Hurt, so Hurt recommended that an additional farm be located near them. Superintendent Jacob Forney opposed Hurt's suggestion, since there were no roads into the Uinta Basin, and he believed that the farms already established, and operating at considerable expense, were adequate for all the Utah Indians.³⁶ When Benjamin Davis, Superintendent Forney's replacement, arrived in Utah, in November 1860, he found the Indian farms in very poor condition and the Indians destitute. With the exception of the Spanish Fork farm, under Agent

Hurt's action.

³⁴U. S. Cong., Senate, *Commissioner of Indian Affairs, Annual Report, 1856*, S. Exec. Doc. No. 5, 34th Cong., 3d sess., 1856, pp. 782-783, Serial 875; Garland Hurt to Jacob Forney, January 10, 1859, Letters Received by the Office of Indian Affairs, 1824-1880, Utah Superintendency, 1859-1860, M234, Roll 899, Frames 39-40, RG 75, NA. Agent Hurt acknowledged that he had established the Indian farms with no authority from the government and without funds to meet the expenditures incurred, "but the only apology I shall offer is, that the circumstances left me without an alternative."

³⁵U. S. Cong., House, *Commissioner of Indian Affairs, Annual Report, 1858*, H. Exec. Doc. No. 2, 35th Cong., 2d sess., 1858, p. 563, Serial 997; U. S. Cong., Senate, *Commissioner of Indian Affairs, Annual Report, 1859*, S. Exec. Doc. No. 2, 36th Cong., 1st sess., 1859, pp. 732-735, Serial 1023; C. Marc Miller, "Preliminary Appraisal Report, Uintah Ute Tract," Case No. 44 Before the Indian Claims Commission, December 7, 1959 (Clearwater Publishing Co., 1973, Micro), pp. 18-19. In his appraisal report prepared for the Indian Claims Commission, C. Marc Miller concluded that "the early Mormon pioneers of Utah unerringly chose for settlement and development the only region in the State of Utah which offered any considerable amount of land suited for agricultural development, and which also offered the state's best grazing regions." It was also the homeland of a large number of Utah Indians.

³⁶Jacob Forney, Superintendent of Indian Affairs, Utah, to Commissioner of Indian Affairs, June 9, 1859; Forney to A.B. Greenwood, Commissioner of Indian Affairs, February 27, 1860; A. Humphreys, Agent, Spanish Fork Indian Farm, to A.B. Greenwood, July 16, 1860, Letters Received by the Office of Indian Affairs, 1824-81, Utah Superintendency, 1859-1860, M234, Roll 899, Frames 486-87, RG 75, NA. Forney did plan three new farms for the Pah-utes in southern Utah, the Shoshones in northern Utah, and a farm at Carson Valley in the west.

Humphreys, the Utes had abandoned the farms and the Indians were wandering in the mountains in search of game.³⁷

In May, 1861, with no relief in sight, Davis advised Humphreys to sell all the farm implements and "to resort to every means at your command to feed and preserve quiet and order" among the Indians. In June, Davis left for Washington, and did not return. In his annual report to the Commissioner, he lamented the sad state of Indian life in Utah and added, "For the various bands of Utes, Pah-Utes, Pah-vants, and others, who congregate at the Spanish Fork farm, I recommend the establishment of a reserve, including the whole of Winter [Uinta] valley in addition to the Spanish fork, Corn creek, and San Pete reserve." When his replacement, Henry Martin, arrived in August, he found the Spanish Fork farm "in a very dilapidated condition, the place having been cleared of everything that was salable, to buy food for the Indians that congregate around there."³⁸

In his final report, written on September 30, 1861, Agent Humphreys complained that white settlers had been permitted to take possession of all the valleys of Utah where the Indians had previously procured a subsistence. The settlers had even surveyed the Spanish Fork Indian farm with the intention of settling that land. Humphreys was pleased when he heard that the Commissioner of Indian Affairs and the Secretary of the Interior had recommended that the Uinta Basin be set apart as a reservation for the Utah Indians. Yet, he feared that the United States had not acted quickly enough because Brigham Young had already sent a large delegation to take possession of the valley. Humphreys warned, "If the settlers should persist in its occupation and retention, it will be impossible for the government officials to do anything without sufficient force wherewith to sustain themselves."³⁹ Humphreys anticipated another round of conflict.

³⁷U. S. Cong., Senate, Commissioner of Indian Affairs, Annual Report, 1861, H. Exec. Doc. No. 1, 37th Cong., 2d sess., 1861, pp. 624-831, Serial 1117. There was no Superintendent of Indian Affairs in Utah between September, 1859, and November, 1860, when Benjamin Davis arrived. Furthermore, there were no funds to meet the needs of the Indians. Davis left Utah for Washington in July, 1861, to explain the problems in Utah to the Commissioner. He did not return. Agent Humphreys, whom Davis had placed in charge of the superintendency, then went to Washington and secured \$5,000 to pay the superintendency debts and purchase a small amount of food and clothing for the Indians. In August, 1861, Davis' replacement, Henry Martin, arrived in Salt Lake City.

³⁸U. S. Cong., Senate, Commissioner of Indian Affairs, Annual Report, 1861, S. Exec. Doc. No. 1, 37th Cong., 2d sess., 1861, pp. 624-831, Serial 1117. Humphreys resigned his position and left Utah on September 5, 1861.

³⁹*Ibid.*

2.6 The 1861 Executive Order and Subsequent Legislation

Three days after Humphreys' last plea for the creation of the Uintah Reservation, President Abraham Lincoln wrote an executive order on October 3, 1861: "Let the reservation be established, as recommended by the Secretary of the Interior."⁴⁰ Since the area had not been surveyed, Secretary of the Interior Caleb Smith had recommended that the "entire valley of the Uintah river, within Utah Territory, extending on both sides of said river to the crest of the first range of contiguous mountains on each side be reserved to the United States, and set apart as an Indian Reservation."⁴¹ Smith's recommendation became the first boundaries of the Uintah Reservation (See Map 5).

James Doty, the new Utah Superintendent of Indian Affairs, believed that the Uinta Basin was an ideal location for a reservation: "It is well watered and abundantly timbered." There were potential building sites along the Duchesne River and its tributaries where settlements of twenty to fifty families, with small farms of five to twenty acres could be located. This development would allow each family to possess separate pasture lands while natural boundaries would separate each band and the grazing was the best in the territory. Even more important, the streams were well-stocked with fish and could readily be diverted for irrigation. The greatest advantage, however, was its remoteness from white settlements.⁴²

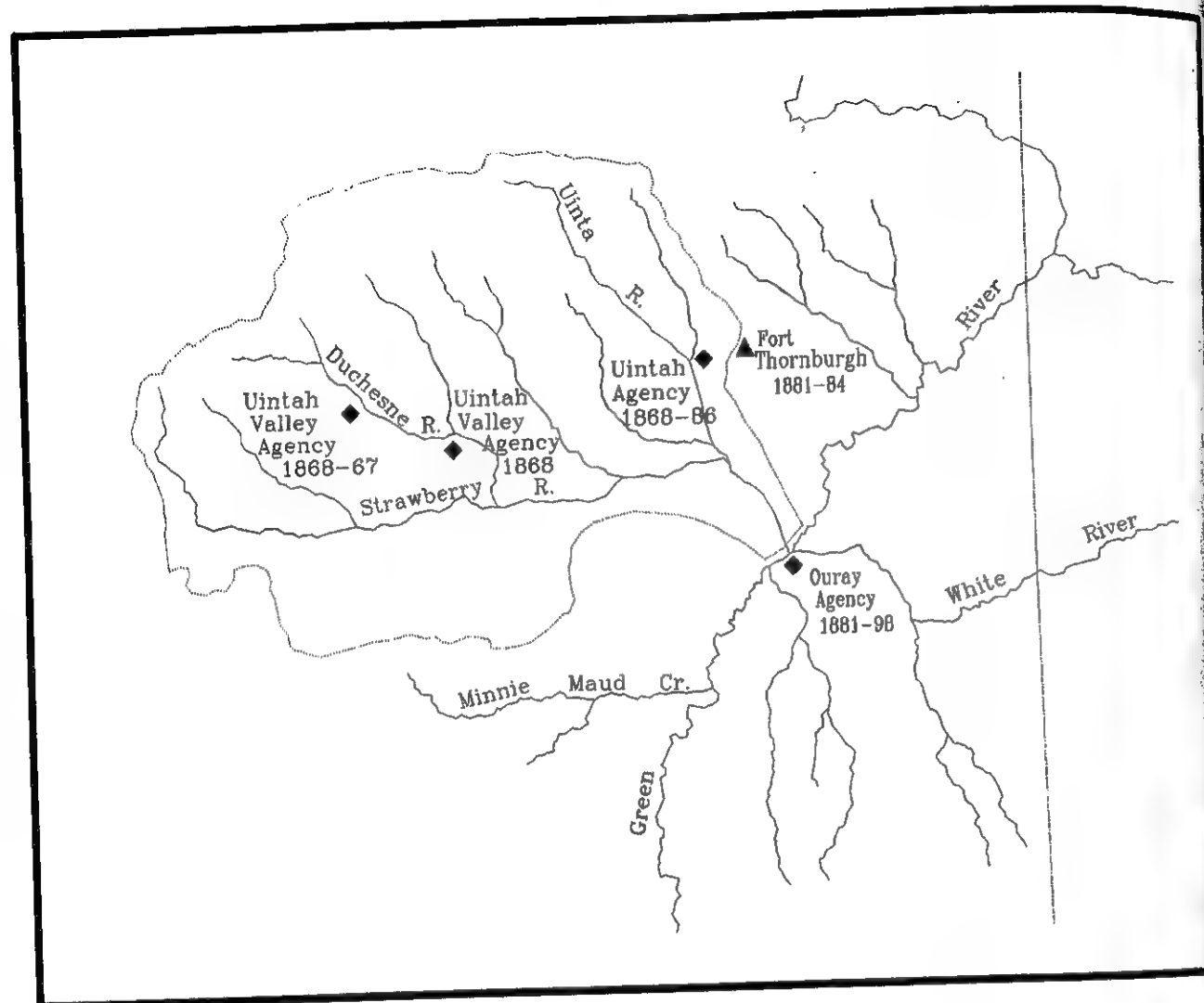
The Ute bands who lived in Utah Valley were not convinced that the Uinta Basin was a better location for them. As a result, they remained on their traditional lands along the

⁴⁰Executive Order, October 3, 1861, in Charles J. Kappler, compiler, Indian Affairs: Laws and Treaties, Vol. 1, Laws (Washington: Government Printing Office, 1904), p. 900. The Indian problems in the West were clearly of secondary importance to the President and Congress, whose attention was directed toward holding the Union together. Throughout the decade the Indians suffered from neglect, as the nation struggled through the Civil War and Reconstruction.

⁴¹Caleb B. Smith, Secretary of the Interior, to Abraham Lincoln, President, October 3, 1861, M234, Roll 900, Frame 299; Charles E. Mix, Acting Commissioner of Indian Affairs, to Caleb B. Smith, Secretary of the Interior, October 1, 1861, Letters Received by the Office of Indian Affairs, 1824-1880, Utah Superintendency, 1861-1862, M234, Roll 900, Frame 300, RG 75, NA. The boundaries were later set by determining whether rain falling would flow into the Duchesne or other river systems. Some time after 1861 the Uintah River referred to in the executive order was changed to Duchesne River with Uinta referring to only one tributary. The Reservation was surrounded on three sides by mountain ranges, which made it very isolated.

⁴²U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1862, H. Exec. Doc. No. 1, 37th Cong., 3d sess., 1862, pp. 342-346, Serial 1157.

MAP 5



Uintah Valley Reservation Boundary
Executive Order October 3, 1861

Source: A History of the Northern Ute People
Cartography by: Glenn Walter

Spanish Fork, even though many citizens insisted that the United States no longer reserved the land for these Indians.⁴³ Therefore, hostilities between the tribesmen and the settlers continued.

Superintendent Doty met with the Utah Valley bands at Spanish Fork to negotiate a cessation of hostilities between the Indians and the settlers in July, 1863. Since Doty had no departmental instructions authorizing these negotiations, he concluded the treaty orally and did not reduce it to writing. To prevent any mistakes, he recommended that an official treaty be concluded the next time the Indians gathered to receive gifts and provisions.⁴⁴

Congress eliminated the treaty request and on May 5, 1864, Congress passed "an Act to vacate and sell the present Indian Reservations in Utah Territory, and to settle the Indians of said Territory in the Uinta Valley."⁴⁵ The problem was that the Utah Indians had never ceded their land in the Utah Valley. To settle that issue, Congress, on February 23, 1865, authorized the negotiation of a treaty to extinguish the Indian title to the lands in Utah Territory.⁴⁶ On March 28, Commissioner of Indian Affairs William Dole sent instructions to O. H. Irish, who had been appointed Superintendent of Indian Affairs for Utah a year earlier, to proceed with treaty negotiations.⁴⁷ Before Irish had contacted the various bands, he received word that a new

⁴³*Ibid.*, pp. 349-350. Sowycett's, Anthrow's and Tabby's bands lived most of the year in the Uinta Basin. Agent T.W. Hatch recommended that the federal government retain the Spanish Fork Reservation for the convenience of the superintendency and as a place where the different bands could gather once or twice a year.

⁴⁴U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1863, H. Exec. Doc. No. 1, 38th Cong., 1st sess., 1863, p. 513, Serial 1182.

⁴⁵13 Stat. 63, May 5, 1864.

⁴⁶13 Stat. 432, February 23, 1865.

⁴⁷O.H. Irish, Superintendent of Indian Affairs, to W. P. Dole, Commissioner of Indian Affairs, August 26, 1864 and December 7, 1864, Letters Received by the Office of Indian Affairs, 1824-1880, Utah Superintendency, 1863-1865, M234, Roll 901, Frames 258-262, RG 75, NA; U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1865, H. Exec. Doc. No. 1, 39th Cong., 1st sess., 1865, pp. 248-249, Serial 1248. Soon after his arrival in Utah, Irish was informed that Mormons and miners were entering the Uintah Reservation. He wrote that urgent action was needed to protect the Indians' interests. Irish was eager to develop the Uintah Reservation. He believed cattle were the most promising source of income for the Uintah Indians, and he requested \$10,000 to purchase a herd in California. He also wanted to build a dam, gristmill and sawmill immediately. He thought money from the sale of the three Indian farms (Spanish Fork, San Pete, Corn Creek) could be used.

conflict, known as the "Black Hawk War," had begun in southern Utah. With a renewed sense of urgency, Irish called the bands to a council at Spanish Fork Indian Farm on June 6, 1865.⁴⁸

Irish concluded a treaty at Spanish Fork where the tribesmen ceded all the lands they occupied in Utah. The Uinta Basin, however, was reserved for Indian use, and any friendly Indians from Utah could be located there by the direction of the President. In addition, the Indians had one year to move to the reservation. The tribesmen would, however, be allowed to fish and to gather roots and berries at their accustomed places on unclaimed land, including the Utah Lake area. In exchange for the ceded land, the United States agreed to protect the Indians from white intrusion on their reservation, pay annuities, purchase cattle, and to furnish a grist and sawmill.⁴⁹

Initially, several chiefs rejected the proposed treaty. As Chief San-Pitch stated, "If the talk is for us to trade the land in order to get the presents, I do not want any blankets or any clothing. I would rather go without than to give up my title to the land I occupy."⁵⁰ However, with the assistance of conciliatory words from Brigham Young and positive statements from elder Chief Sow-e-ett, Superintendent Irish convinced other Ute leaders, headmen, and delegates to sign the treaty.⁵¹ On March 23, 1866, the Spanish Fork Treaty was submitted to the United States Senate for ratification. The Senate tabled it for three years and then rejected the document on March 11, 1869.⁵²

The Senate's failure to ratify the treaty created mistrust and unrest among the Ute bands. As a result, many tribesmen refused to go to the Uintah Reservation. Superintendent Franklin

⁴⁸Gustave O. Larson, "Uintah Dream: The Ute Treaty-Spanish Forks, 1865, *Brigham Young University Studies*, Vol. 14, No. 3 (Spring, 1974), p. 363.

⁴⁹U. S. Cong., House, *Commissioner of Indian Affairs, Annual Report, 1865*, H. Exec. Doc. No. 1, 39th Cong., 1st sess., 1865, pp. 317-320, Serial 1248.

⁵⁰Quoted in Larson, "Uintah Dream," p. 367. San-Pitch eventually placed his mark on the treaty.

⁵¹*Ibid.*, pp. 367-369.

⁵²*Ibid.*, pp. 373-375; O'Neil and MacKay, *A History of the Uintah-Ouray Ute Lands*, p. 7. MacKay and O'Neil claim that the Senate refused to ratify the Spanish Fork Treaty immediately as a reaction against the Utah War of 1858-1860, the Mountain Meadow Massacre, and the reluctance of the Mormons to participate in the Civil War. Larson, however, believed the rejection of the treaty was based on the growing policy of assimilation and allotment and the House's insistence on increasing its role in Indian affairs. This led to the end of the Indian treaty system in 1869.

Head, who replaced Irish in 1866, was reluctant to press the issue, even though Congress contemplated locating all Utah Indians on the Uintah Reservation.⁵³

Through these ill-fated treaty negotiations, the Black Hawk War continued between tribesmen and settlers, which consisted primarily of tribal depredations and raids against Mormon settlements. In August, 1867, Superintendent Head met with Black Hawk and negotiated an end to the raids.⁵⁴ According to Superintendent Head, Black Hawk then kept the peace and became "one of the most industrious Indians in labors connected with the [Agency] farm."⁵⁵

The end of the Black Hawk War ended the old era of raiding and inaugurated the new era of the reservation. Although many Utes refused to go to the Uintah Reservation and a few continued to raid the settlements, the Utes slowly began to accept reservation life. Agent J.J. Critchlow, who arrived at the agency in 1870, and remained for twelve years, provided a sense of stability to the Indians.

One of Critchlow's first major projects was the installation of a sawmill in order to build good homes for the Indians who were on the Uintah Reservation. He hoped that when other Indians of the Territory came to the agency to receive their presents, they would see the homes and the beautiful valley and want to live at the Uintah Reservation.⁵⁶ About 800 Uintah Utes

⁵³U. S. Cong., House, *Commissioner of Indian Affairs, Annual Report, 1867*, H. Exec. Doc. No. 1, 40th Cong., 2d sess., 1867, p. 177, Serial 1326; Franklin Head to D.N. Cooley, Commissioner of Indian Affairs, March 31, 1866, M 234, Roll 902, Frames 28-31; Head to Cooley, June 25, 1866, M2345, Roll 902, Frames 114-220; Head to N.J. Taylor, Commissioner of Indian Affairs, November 3, 1867, Letters Received by the Office of Indian Affairs, 1824-1880, Utah Superintendency, 1866-1869, M234, Roll 902, Frames 613-620, RG 75, NA (f613-620); Kathryn L. MacKay, "The Strawberry Valley Reclamation Project and the Opening of the Uintah Indian Reservation," *Utah Historical Quarterly*, Vol. 50, No. 1 (Winter, 1982), pp. 70-71. The first Uintah Agency was built in 1865 at the head of Daniels Canyon. Thomas Carter moved it near present-day Hanna on the upper Duchesne River. Superintendent Head then moved it to Rock Creek, and in 1868 it was moved to White Rocks. Superintendent Head also attempted to place a sawmill in operation on the reservation at an early date. See Chapter 3 for a discussion of sawmill operations on the reservation.

⁵⁴U. S. Cong., House, *Commissioner of Indian Affairs, Annual Report, 1867*, H. Exec. Doc. No. 1, 40th Cong., 2d sess., 1867, p. 178, Serial 1326.

⁵⁵U. S. Cong., House, *Commissioner of Indian Affairs, Annual Report, 1868*, H. Exec. Doc. No. 1, 40th Cong., 3d sess., 1868, pp. 612-613, Serial 1366.

⁵⁶J. J. Critchlow, Agent, to E.S. Parker, Commissioner of Indian Affairs, February 4, 1871, Letters Received by the Office of Indian Affairs, 1824-1880, Utah Superintendency, 1870-1872, M234, Roll 903, Frames 137-142, RG 75, NA.

resided on the Uintah Valley Reservation when Critchlow assumed control of the agency.⁵⁷ Some of the Uintah Utes farmed, but most of them preferred to hunt. They were assisted with an annual appropriation of about \$10,000 from Congress, but they had no treaty with the United States.⁵⁸

Critchlow faced persistent non-Indian encroachment upon the Uintah Reservation. In 1875, the tribesmen protested the establishment of settlements on Ashley Creek, northeast of the reservation, which they claimed was part of the reservation.⁵⁹ At the other end of the reservation Critchlow found that Strawberry Valley, which was an excellent summer stock range, was becoming a "thoroughfare for cattle driven from the Southern part of the Territory to Cheyenne for Eastern markets, and a general rendezvous for stock herds." One rancher even grazed cattle at that location for two or three months "paying or bribing one or two Indians for the privilege."⁶⁰ Critchlow considered leasing grazing land to non-Indian cattlemen to insure the Utes some monetary benefit from this use of their range; but he discovered that the Uintah Utes were "utterly opposed to having any one [sic] bring cattle on the reservation."⁶¹ The agent was unwilling to do anything that would upset the Indians.⁶²

The agent, along with the tribesmen, were restricted in their ability to exploit reservation resources to their best economic advantage because the tribesmen lacked specific skills. Also, the Office of Indian Affairs did not have a defined policy for timber harvesting. Since the agency operated the only sawmill in the area, settlers asked if the agency would sell lumber to

⁵⁷The Uintah Utes consisted of Uintah, Timpanogot, Pahvant, Sandpit, and Moanunt Indians who left their traditional homes in Utah and settled on the Uintah Valley Reservation after 1861.

⁵⁸U. S. Congress, House, Commissioner of Indian Affairs, Annual Report, 1872, H. Exec. Doc. No. 1, Part 5, 42d Cong., 3d sess., 1872, p. 444, Serial 1560.

⁵⁹J. J. Critchlow, Agent, to Commissioner of Indian Affairs, January 4, 1875, Letters Received by the Office of Indian Affairs, 1824-1880, Utah Superintendency, 1875-1877, M234, Roll 905, Frame 16, RG 75, NA.

⁶⁰J. J. Critchlow, Agent, to E. A. Hayt, Commissioner of Indian Affairs, September 3, 1878, Letters Received by the Office of Indian Affairs, 1824-1880, Utah Superintendency, 1878-1880, M234, Roll 906, Frame 124, RG 75, NA.

⁶¹J. J. Critchlow to J. Q. Smith, Commissioner of Indian Affairs, May 1, 1877, Letters Received by the Office of Indian Affairs, 1824-1880, Utah Superintendency, 1875-1877, M234, Roll 905, Frames 485-486, RG 75, NA.

⁶²E. H. Parsons to J. Q. Smith, Commissioner of Indian Affairs, November 17, 1876, M234, Roll 905, Frame 372; J. J. Critchlow, Agent, to Smith, November 27, 1876, M234, Roll 905; Parsons to Smith, February 3, 1877, Letters Received by the Office of Indian Affairs, 1824-1880, Utah Superintendency, 1875-1877, M234, Roll 905, Frames 461-463, RG 75, NA.

them. Critchlow wished to accommodate settlers' needs, but could not produce enough lumber to satisfy agency requirements. Therefore, he requested permission from the Commissioner of Indian Affairs to barter with the settlers encouraging the settlers to share labor by hauling logs to the sawmill and producing lumber both for Indians and settlers. Critchlow made it clear that "The object has not been to make money, but to cover expenses and afford such accommodations as seem to be absolutely necessary in our situation."⁶³ Commissioner of Indian Affairs Edward P. Smith recommended to the Secretary of the Interior Columbus Delano that Critchlow's plan be approved.⁶⁴

The Indians of the Uintah Reservation lived with constant uncertainty. Without a treaty, they had no guarantees that their reservation and improvements would be protected; they had no assurances that they would be paid for land and improvements which had been taken from them. Under such adversity, Agent Critchlow encouraged the Indians to remain on the reservation and plant crops, but even he was unsure that the government would maintain the Uintah Reservation.⁶⁵ That uncertainty slowly changed when the United States moved Colorado Utes to the Uintah Reservation.

⁶³J. J. Critchlow, Agent, to J. Q. Smith, Commissioner of Indian Affairs, August 30, 1877, Letters Received by the Office of Indian Affairs, 1824-1880, Utah Superintendency, 1875-1877, M234, Roll 905, Frames 526-527, RG 75, NA.

⁶⁴J. Q. Smith, Commissioner of Indian Affairs, to Secretary of the Interior, September 30, 1877, Letters Received by the Office of Indian Affairs, 1824-1880, Utah Superintendency, 1875-1877, M234, Roll 905, Frames 529-530, RG 75, NA. Critchlow also reported that he had been grinding wheat for the settlers and took one-eighth as toll for the use of Indians. Not until Congress passed the Dead and Down Timber Act on February 16, 1889 (25 Stat. 673), was there a general policy for harvesting Indian timber. The act applied only to dead timber. A general Indian forestry program was not instituted until 1909-1910 (35 Stat. 783; 36 Stat. 857).

⁶⁵J. J. Critchlow, Agent, to E. A. Hayt, Commissioner of Indian Affairs, January 8, 1878, Letters Received by the Office of Indian Affairs, 1824-1880, Utah Superintendency, 1878-1880, M234, Roll 906, Frame 17, RG 75, NA; U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1878, H. Exec. Doc. No. 1, Part 5, Volume 1, 45th Cong., 3d sess., 1878, pp. 622-624, Serial 1850.

2.7 Colorado Utes Move to the Uintah Reservation: The Meeker Affair

The unrest and uncertainty on the Uintah Reservation were intensified by events in Colorado. As a result of the murder of Agent Nathan Meeker and employees at White River Agency in Colorado, September 29, 1879, an event known as the "Meeker Massacre," Colorado Utes were moved to the Uintah Reservation and to the open lands immediately southeast of the reservation, creating the Ouray Reservation, insuring the continual existence of the Uintah Reservation.

In 1863, the Uncompahgre (Taviwach or Tabequache) Utes of Colorado, under Chief Ouray, signed a treaty ceding "all mineral rights, all mountain areas settled by whites and the San Luis Valley" in exchange for a reservation of 14,730,000 acres.⁶⁶ Colorado Governor John Evans described the cession as "one of the most extensive and perhaps the most valuable cessions ever secured in a single treaty from any tribe of Indians in the country."⁶⁷ Other Ute bands declined to sign the treaty, for they had no desire to be confined to reservations and to become farmers.

The Colorado Utes ceded additional lands to the United States in 1868, and in return, the United States agreed to establish an agency for the Grand River, Yampah, and Uintah bands at White River, and an agency for the Tabewatch (Uncompahgre), Muache, Weeminuche, and Capote bands on Los Pinos Creek.⁶⁸ When large silver leads were discovered on Ute lands along the Las Animas River in southern Colorado, miners convinced Congress to authorize negotiations for an additional land cession.⁶⁹ The Utes, lead by Ouray, rejected the idea of selling any more of their land.

⁶⁶13 Stat. 673, October 7, 1863; U.S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1863, H. Exec. Doc. No. 1, 38th Cong., 1st sess., 1863, pp. 243-244, Serial 1182; Richard O. Clemmer and Omer C. Stewart, "Treaties, Reservations, and Claims," in Handbook of North American Indians, edited by Warren L. D'Azevedo, Vol. 11 (Washington: Smithsonian Institute, 1986), pp. 355, 532. The treaty with the White River Utes negotiated in 1863 was never ratified.

⁶⁷U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1863, H. Exec. Doc. No. 1, 38th Cong., 1st sess., 1863, p. 244, Serial 1182.

⁶⁸15 Stat. 619, March 2, 1868; LeRoy R. Hafen, "Historical Summary of the Ute Indians and the San Juan Mining Region," in Ute Indians II (New York: Garland, 1974), pp. 285-287; Callaway et al., "Ute," p. 355. The Los Pinos Agency became the Uncompahgre Agency in 1876.

⁶⁹Hafen, "Historical Summary of the Ute Indians and the San Juan Mining Region," pp. 291-294; 17 Stat. 55, April 23, 1872.

One of the negotiators, Felix Brunot, a member of the board of Indian Commissioners, befriended Chief Ouray. Then Brunot promised to help Ouray find his son, who had been stolen by an enemy band ten years earlier, if Ouray would negotiate a land agreement. Chief Ouray agreed, and though his son was not returned, he signed the treaty.⁷⁰

The Uncompahgre Utes at the Los Pinos Agency followed Chief Ouray in locating on the reservation, although they were not happy with the Brunot Treaty.⁷¹ The White River Utes responded quite differently. They continued to live by hunting, and many openly opposed and ridiculed efforts to farm.⁷² Furthermore, settlers and miners constantly agitated for additional Ute cessions which maintained strained relations between the different groups.

Seeking to end this strife, Congress authorized a commission to negotiate for the consolidation of all the Colorado Ute bands into one agency on the White River in 1878.⁷³ The Utes agreed to cede a strip of the Confederated Ute Reservation south of the 38th Parallel, but they rejected consolidation at White River.⁷⁴

Nathan Meeker, who was appointed agent at White River in the spring of 1878, found the agency in miserable condition and received authority to move the agency to Powell's Valley,

⁷⁰U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1873, H. Exec. Doc. No. 1, pt. 5, 43rd Cong., 1st sess., 1873, pp. 451-481, Serial 1601; 18 Stat. 36, April 29, 1874; Hafen, "Historical Summary of the Ute Indians and the San Juan Mining Region," pp. 317-324; Callaway et al., "Ute," p. 355. The Brunot Treaty, as this treaty is called, was signed in September, 1873. The arguments that finally convinced Ouray to sign are not stated in the treaty minutes. It appears that Brunot, at the suggestion of Otto Mears (a long-time acquaintance and friend of the Utes), offered Ouray a pension and the Utes the interest on half a million dollars for ten years for the cession. Such terms were included in the treaty.

⁷¹U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1875, H. Exec. Doc. No. 1, pt. 5, 44th Cong. 1st sess., 1875, pp. 734-736, Serial 1680.

⁷²U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1875, H. Exec. Doc. No. 1, pt. 5, 44th Cong. 1st sess., 1875, pp. 736-737, Serial 1680.

⁷³20 Stat. 48, May 3, 1878; U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1879, H. Exec. Doc. No. 1, pt. 5, 46th Cong. 2d sess., 1879, pp. 276, Serial 1910.

⁷⁴U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1879, H. Exec. Doc. No. 1, pt. 5, 46th Cong. 2d sess., 1879, pp. 284-287, Serial 1910; U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1878, H. Exec. Doc. No. 1, pt. 5, 45th Cong. 3d sess., 1878, p. 481, Serial 1850. Commissioner of Indian Affairs Hayt agreed with the Utes that White River was a poor location.

twenty miles below White River.⁷⁵ During the spring and summer of 1879, a large number of the White River Utes left the reservation to hunt. Alarmed that they might raid the surrounding settlements, Agent Meeker requested assistance from the military and he sent tribal messengers to the Ute hunting camps asking them to return to the reservation. No army was sent and the Indians did return. In early September, a small group of Utes opposed Meeker's decision to plow additional land. In the midst of the disagreement, Chief Johnson assaulted Meeker. When word of the assault reached Commissioner of Indian Affairs Ezra A. Hayt, he requested that the nearest military commander, Major Thomas T. Thornburgh, send sufficient troops to protect the agent and to arrest the insubordinate chief.⁷⁶

On September 29, a band of Utes attacked Thornburgh's troops, killing Thornburgh. At the White River Agency, Agent Meeker and seven employees were also killed.⁷⁷ To the south, at the Los Pinos Agency, Ouray convinced the Uncompahgre Utes to refrain from becoming involved in the conflict and he even sent word to the White River Utes to cease hostilities.⁷⁸ When news of the Meeker Massacre reached the Uintah Reservation, the Indians there, under Tabby, refused to get involved in the hostilities.⁷⁹

Commissioner of Indian Affairs Hayt used the Meeker tragedy to gain support for his plan to remove all the Utes from western Colorado.⁸⁰ He summoned a Ute delegation to Washington, where he negotiated an agreement, later ratified by Congress, through which the Utes ceded almost all the Colorado Reservation to the United States. The Southern Utes agreed to move to the La Plata River in southwestern Colorado, the Uncompahgre Utes agreed to move to agricultural lands on the Grand River or to Utah, and the White River Utes agreed to move

⁷⁵U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1878, H. Exec. Doc. No. 1, pt. 5, 45th Cong. 3d sess., 1878, pp. 514-515, Serial 1850.

⁷⁶U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1879, H. Exec. Doc. No. 1, pt. 5, 46th Cong. 2d sess., 1879, pp. 82-91, Serial 1910.

⁷⁷U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1879, H. Exec. Doc. No. 1, pt. 5, 46th Cong. 2d sess., 1879, pp. 92-95, Serial 1910; Marshall Sprague, Massacre: The Tragedy at White River (Boston: Little Brown, 1957), pp. 190-209.

⁷⁸U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1879, H. Exec. Doc. No. 1, pt. 5, 46th Cong. 2d sess., 1879, pp. 94-95, Serial 1910.

⁷⁹J. J. Critchlow to E. A. Hayt [Report on Outbreak at White River Agency], October 4, 1879, Letters Received by the Office of Indian Affairs, 1824-1880, Utah Superintendency, 1878-1880, M234, Roll 906, Frames 337-340, RG 75, NA.

⁸⁰U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1879, H. Exec. Doc. No. 1, pt. 5, 46th Cong. 2d sess., 1879, pp. 96-97, Serial 1910.

to the Uintah Reservation, where they would be allotted lands in severalty.⁸¹ The Uintah band was not a party to this agreement and never had been consulted.⁸²

In August, 1881, the White River Utes moved to the Uintah Reservation.⁸³ In the following month, the Uncompahgre Utes settled land along the Green River adjacent to the Uintah Reservation because the Ute Commission, sent by the Office of Indian Affairs, found the Grand River site unsuitable for farming.⁸⁴ On January 5, 1882, by executive order, the land was withdrawn from entry creating the Uncompahgre Indian Reservation (See Map 6).⁸⁵ A second agency was established at Ouray, and a military post, Fort Thornburgh, was built north of the Ouray Agency in 1881.⁸⁶

Initially, the Uintah Utes protested the relocation of the White River Utes to the Uintah Reservation, since the White River Utes were placed there without Uintah Ute consent. An additional source of friction was that the White River Utes received an annuity; the Uintah Utes received nothing. To make matters worse, a large beef herd was purchased for the White River Utes and not for the Uintah band. Also, the Uintah Utes were more committed to agriculture than were the White River Utes. Eventually the hard feelings lessened and there was some intermarriage between the two groups.⁸⁷

The United States consolidated the Uintah and Ouray (Uncompahgre) agencies into a single agency with two sub-agencies in 1886. To maintain peace, the army constructed a military post, Fort Duchesne, half way between the two sub-agencies. With the agency

⁸¹21 Stat. 199, June 15, 1880; U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1881, H. Exec. Doc. No. 1, pt. 5, 47th Cong. 1st sess., 1881, pp. 259-274, Serial 2018.

⁸²"Findings of Fact Before the Indian Claims Commission," The Uintah Ute Indians of Utah, Plaintiffs v. The United States of America, Defendant, Docket No. 45, February 21, 1957, in Ute Indians II (New York: Garland, 1974), pp. 393-398.

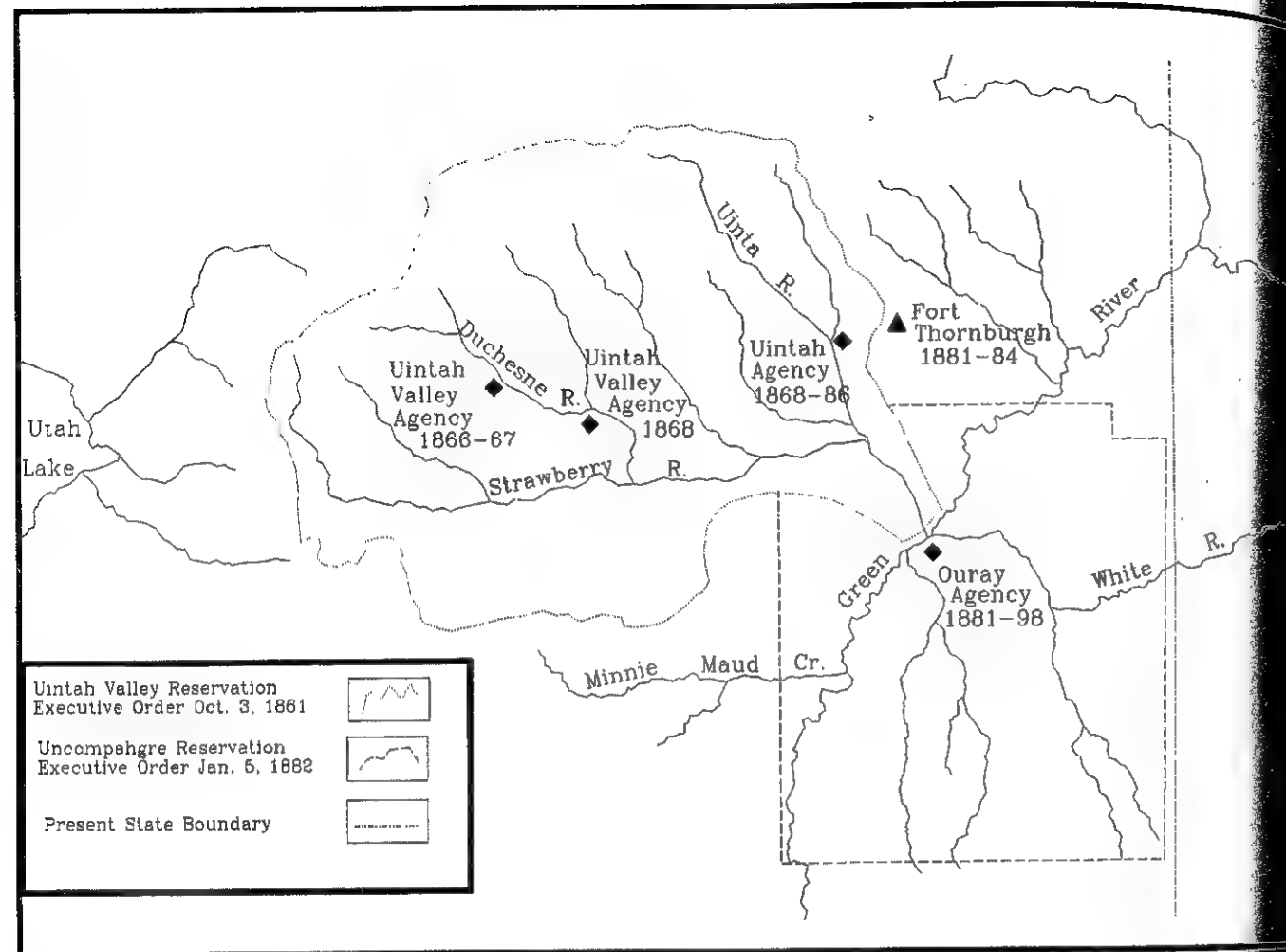
⁸³U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1881, H. Exec. Doc. No. 1, pt. 5, 47th Cong. 1st sess., 1881, pp. 215-216, Serial 2018.

⁸⁴U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1881, H. Exec. Doc. No. 1, pt. 5, 47th Cong. 1st sess., 1881, pp. 77-81, Serial 2018.

⁸⁵Executive Order, January 5, 1882, in Kappler, Indian Affairs, Vol. 1, Laws, p. 901.

⁸⁶Floyd A. O'Neil, "The Reluctant Suzerainty: The Uintah and Ouray Reservation," Utah Historical Quarterly Vol. 39, No. 2 (Spring 1971), p. 134.

⁸⁷U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1885, H. Exec. Doc. No. 1, pt. 5, 49th Cong. 1st sess., 1885, p. 406, Serial 2379.



Utah Ute Reservations 1861-1898

Source: A History of the Ute People

Cartography by: Glenn Walter

consolidation, efforts began to relocate Ouray's people on the Uintah portion of the reservation. The Uncompahgre Utes had moved from the Los Pinos Agency to Grand River and then to Green River on the Ouray Reservation where they still had inadequate farm land. Agent T. A. Byrnes thought that there was sufficient farm land on the Uintah Reservation for all the Ute bands and recommended that the Uncompahgre Utes be allotted land on the Uintah reserve. To accomplish this task, Byrnes requested that a commission be appointed to negotiate with the various Ute bands to allow the Uncompahgre Utes to move to the Uintah Valley Reservation.⁸⁸

2.8 Allotment and Opening of the Uintah and Ouray Indian Reservation

The Indian reservations created during the last half of the nineteenth century were not envisioned by makers of Indian policy to remain permanent, self-sustaining institutions. Written into nearly all the treaties negotiated after 1854 was a clause that encouraged the allotment of reservation lands to individual tribesmen.⁸⁹ Couched in the imagery of the yeoman farmer, private property, individual independence, and the Protestant work ethic, allotment in severalty was portrayed as the key to incorporating the American Indian into "American" society.

In 1887, Congress passed the General Allotment Act, known as the Dawes Act, which, with a few stated exceptions, extended allotment in severalty to all the Indian tribes. The General Allotment Act differed from earlier allotment acts by its general application to most of the Indian tribes and its compulsory rather than voluntary nature.⁹⁰

Allotment was a significant factor for locating the various Ute bands on the Uintah and Ouray Reservation.⁹¹ The Ute Treaty of March 2, 1868, permitted the head of a family to select a quarter section of land.⁹² The law of June 15, 1880, required the White River Utes to settle on allotments on the Uintah Reservation and the Uncompahgres to relocate to the Grand

⁸⁸U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1888, H. Exec. Doc. No. 1, pt. 5, 50th Cong. 2d sess., 1888, p. 220, Serial 2637.

⁸⁹Paul W. Gates, "Indian Allotments Preceding the Dawes Act," in John G. Clark, editor, The Frontier Challenge: Responses to the Trans-Mississippi West (Lawrence: University of Kansas, 1971), pp. 162-163.

⁹⁰24 Stat. 388-391, February 8, 1887; Francis Paul Prucha, American Indian Policy in Crisis: Christian Reformers and the Indian, 1865-1900 (Norman: University of Oklahoma, 1976, Chapter 8; Henry E. Fritz, The Movement for Indian Assimilation, 1860-1890 (Philadelphia: University of Pennsylvania, 1963), pp. 209-215.

⁹¹Although the Uintah Valley Reservation and the Uncompahgre Reservation were administratively consolidated in 1886, they remained two separate reservations with different terms of land tenure.

⁹²15 Stat. 620, March 2, 1868.

River providing there was adequate agricultural land for allotments.⁹³ When the Grand River land proved inadequate for allotments, the Uncompahgres were moved to the Ouray Reservation on the Green River. The General Allotment Act affirmed and supported the allotment policy already envisioned for the Utes of the Uintah and Ouray Reservation. Between 1888 and 1910, through various laws and executive orders related to allotment, the land area held by the Uintah, White River, and Uncompahgre Utes was greatly diminished.

2.9 The Strip Cession, 1888

The first reduction of the Uintah and Ouray Reservation occurred in 1888. Three years before, prospectors discovered gilsonite, a mineral used to manufacture asphalt, near the northeastern boundary of the Ouray Reservation. The miners assumed that they were on public domain, but a survey proved them to be inside the reservation boundary. Uintah Agent T. A. Byrnes, who came to the agency January 1, 1887, closed the mining operations and ordered the miners off the reservation.⁹⁴

Refusing to be denied access to the gilsonite, mining interests then had a bill introduced in Congress to restore to the public domain 7000 acres of reservation land on which the gilsonite was discovered. The House Committee on Indian Affairs concluded that the land was "a very small and insignificant part of this great reservation," that it was "a sandstone desert, uninhabited, unfit for agricultural or grazing purposes," and that "it is utterly worthless for any purpose to the tribes." The committee could "see no reason why it should not be restored, as it is of no value to and is not used by the Indians, and will add greatly to the wealth and prosperity of the Territory and of the country."⁹⁵

Congress passed the act and submitted the legislation to the tribes who accepted the terms. The miners were to pay \$20 per acre for the mineral lands and the money was to be placed in the tribes' trust accounts. Following tribal approval, the gilsonite strip was severed from the reservation (See Map 7).⁹⁶

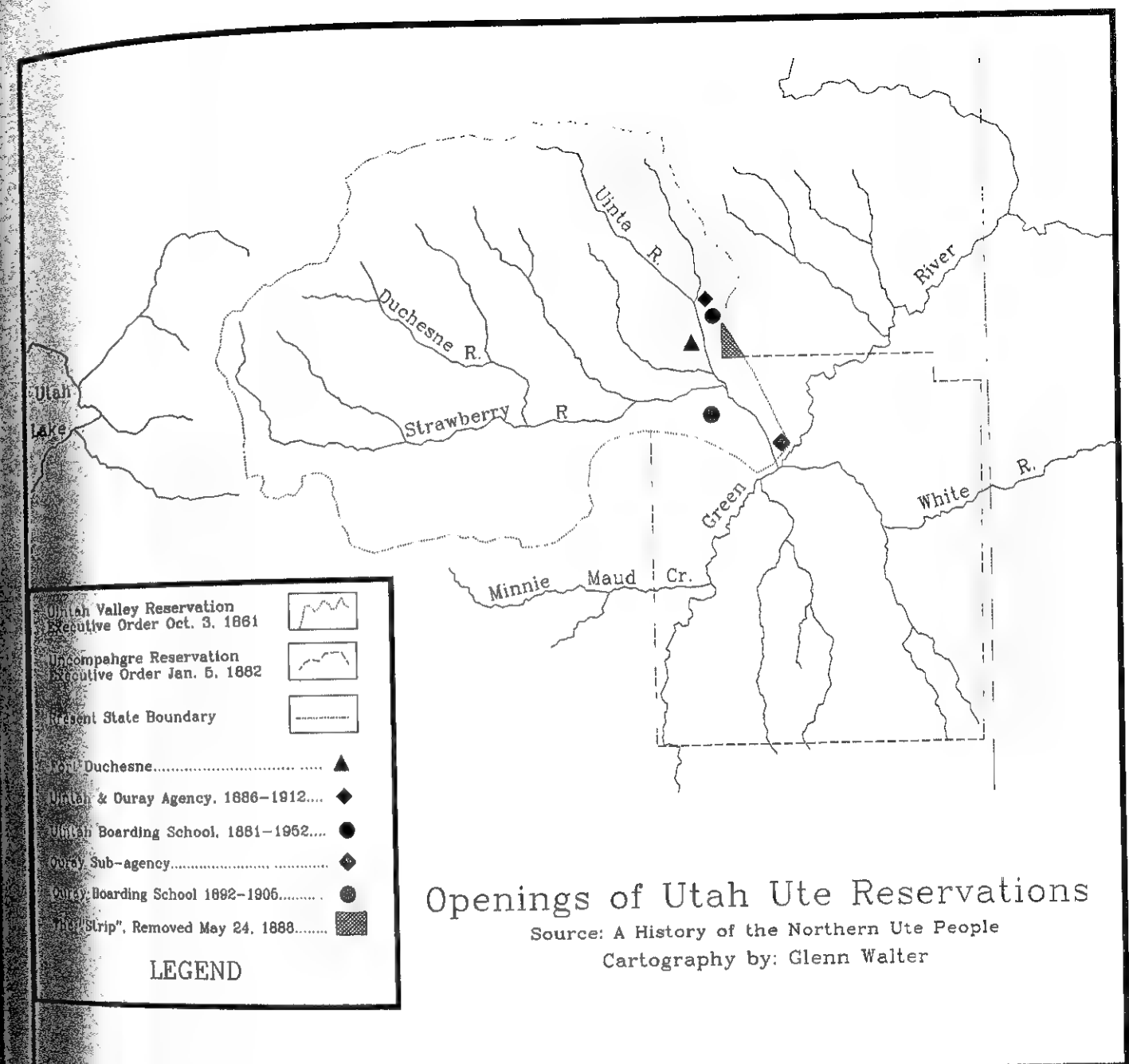
⁹³21 Stat. 199, 205, June 15, 1880.

⁹⁴T. A. Byrnes, Uintah Agent, to Commissioner of Indian Affairs, September 1, 1880, Fifty-Eighth Annual Report of the Commissioner of Indian Affairs to the Secretary of the Interior, 1889 (Washington: Government Printing Office, 1889), p. 280; U. S. Cong., House, Uintah Valley Indian Reservation, H. Rept. No. 791, 50th Cong., 1st sess., 1888, Vol. 3, pp. 1-3, Serial 2600.

⁹⁵U. S. Cong., House, Uintah Valley Indian Reservation, H. Rept. No. 791, 50th Cong., 1st sess., 1888, Vol. 3, p. 2, Serial 2600.

⁹⁶25 Stat. 157, 158, May 24, 1888; T. A. Byrnes, Agent, Uintah and Ouray Agency, to Commissioner of Indian Affairs, September 1, 1889, Fifty-Eighth Annual Report of the Commissioner of Indian Affairs to the Secretary of the Interior, 1889 (Washington: Government Printing Office, 1889), p. 280.

MAP 7



The 1888 restoration revealed the narrow limits of United States Indian policy and a harbinger of future reductions to the tribesmen's land base. So thoroughly were Congress and the Executive Branch committed to the program of turning Indians into farmers that they ignored the value of non-agricultural resources, especially minerals and timber, to the Indian economy. As a result, those who coveted Indian resources justified their demands for land restorations, exchanges, or cessions by the Indians on the basis that those lands were not of value to the Indians, even though those lands were recognized as a source of wealth to non-Indians.

2.10 Allotting and Opening the Ouray Reservation, 1898

Congress authorized the President to appoint a three-person Ute Commission to allot land to the Uncompahgre Utes according to the agreement of 1880 in the 1894 Indian Service Appropriations Act. The legislation ordered the Uncompahgre Utes to pay \$1.25 per acre for their allotments from funds they received from the sale of their former Colorado reservation. The remaining Utah lands occupied by the Uncompahgre Utes would be opened to entry under the homestead and mineral laws of the United States. Once the commissioners had allotted the Uncompahgre Utes, they would allot the Uintah Reservation to the Uintah and White River Utes.⁹⁷

The Uncompahgre Utes rejected the Ute Commission's offer to allot their reservation and to force them to pay for their allotments. Commissioner of Indian Affairs Daniel Browning concluded that "it would be idle to continue the efforts to induce these Indians to take allotments in severalty so long as this, to them, objectionable requirement is insisted upon."⁹⁸ The allotment issue was further confused by the Ute Commission's discovery that there was inadequate land on the Uncompahgre Reservation to allot all the Uncompahgre Utes, and much of the land they occupied was located within the Uintah Reservation.⁹⁹

Responding to recommendations from Commissioner of Indian Affairs Browning and Secretary of the Interior Hoke Smith, Congress authorized a new commission on June 10, 1896,

⁹⁷28 Stat. 337, August 15, 1894; U. S. Cong., House, Uncompahgre Indians, H. Rept. No. 660, 53rd Cong., 2d sess., 1894, pp. 1-4, Serial 3270; U. S. Cong., Senate, In the Senate of the United States, S. Rept. No. 450, 53rd Cong., 2d sess., 1894, Serial 3183. The Uncompahgres and the Uintahs held their reservations under quite different terms. The Uintahs had a well-established title to their reservation. The Uncompahgres, however, were considered to have only rights to temporary occupancy of their reservation while they awaited allotment.

⁹⁸U. S. Cong., House, Appropriation for Conducting Negotiations with Certain Indians, H. Doc. No. 248, 54th Cong., 1st sess., 1896, p. 3, Serial 3425.

⁹⁹U. S. Cong., House, Uncompahgre Indian Reservation, H. Doc. No. 191, 54th Cong., 1st sess., 1896, pp. 14-17, Serial 3420. See also U. S. Cong., Senate, Uintah Indian Reservation, S. Doc. No. 32, 55th Cong., 1st sess., 1897, pp. 1-19, Serial 3559.

to negotiate land allotment with the White River, Uintah, and Uncompahgre Utes.¹⁰⁰ In January, 1898, the commission met with the Uintah and White River Utes, who consented to cede or sell part of their reservation to the United States for allotment to the Uncompahgre Utes. Six months later, Congress authorized another commission to allot lands to the Uncompahgre, White River, and Uintah Utes. In addition to a quarter section of agricultural land, each head of family would be allotted a quarter section of grazing land. The commission was further instructed to obtain the cession to the United States of all the Uintah Reservation lands not needed for allotments. Money from the sale of the ceded lands would be placed in the Treasury for the exclusive use of the tribesmen.¹⁰¹

The commission then proceeded to allot the Uncompahgre Utes and then the Ouray Reservation was opened to homesteading in 1898 (See Map 8). By 1902, 284 Uncompahgre allotments had been made on the Uintah Reservation and another 100 were scattered along the bottom lands of White and Green rivers. Two hundred Uncompahgre Utes had not been allotted.¹⁰²

2.11 Allotting and Opening the Uintah Reservation, 1905

While the Uncompahgre Utes were receiving their land allotments, settlers and miners intensified their demands arguing that the Uintah Reservation should be opened at an early date. Congress scheduled the opening for 1902, but delays in the surveys, which had to be completed before the reservation could be opened, postponed the event.¹⁰³

The Uintah Utes, and more strongly the White River Utes, opposed opening the reservation to non-Indian settlers.¹⁰⁴ Inspector James McLaughlin, who was sent to negotiate

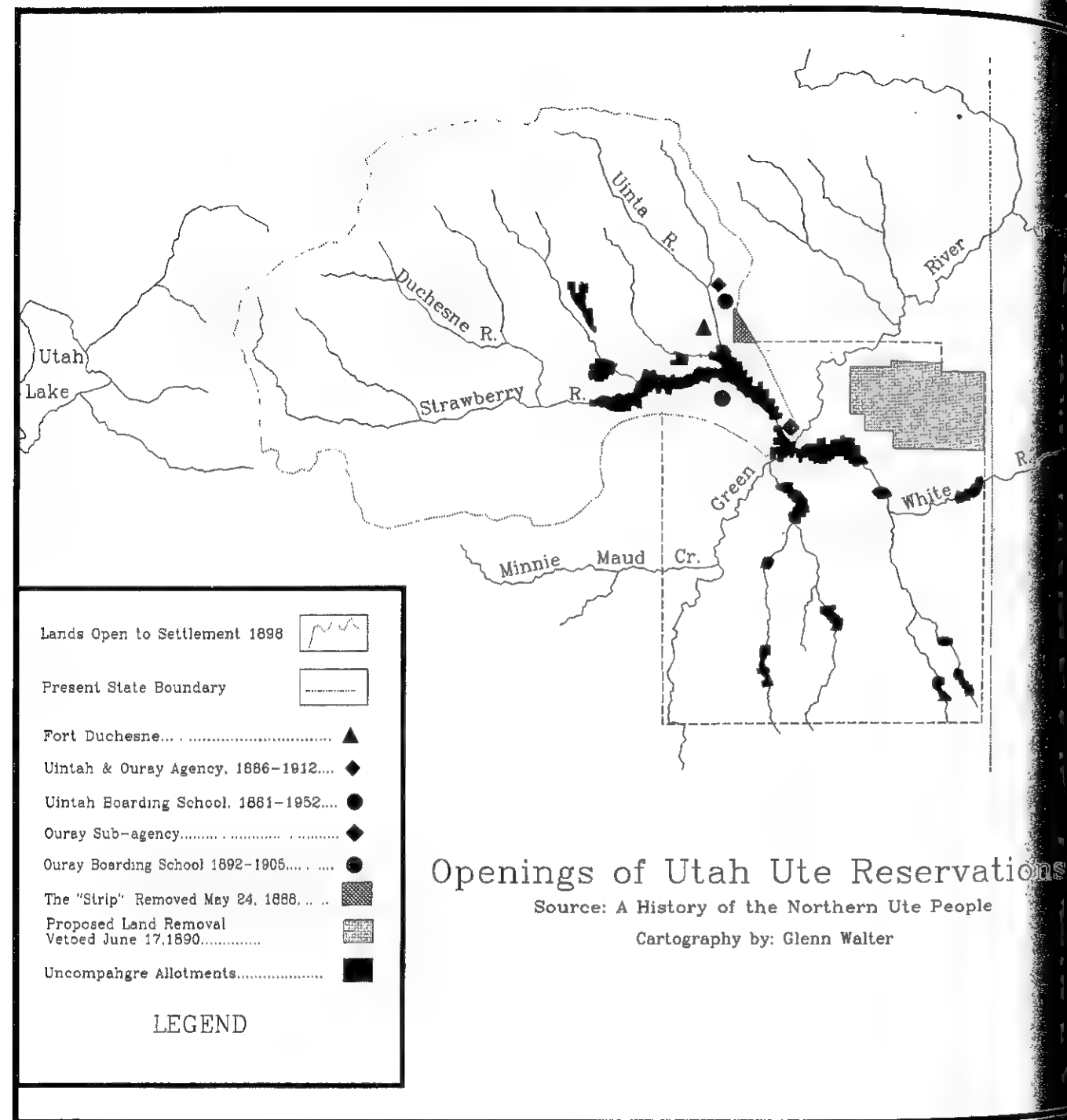
¹⁰⁰U. S. Cong., House, Appropriation for Conducting Negotiations with Certain Indians, H. Doc. No. 248, 54th Cong., 1st sess., 1896, pp. 1-5, Serial 3425; 29 Stat. 342, June 10, 1896; U. S. Cong., House, Uncompahgre Indian Reservation, H. Doc. No. 191, 54th Cong., 1st sess., 1896, pp. 1-2, Serial 3420.

¹⁰¹30 Stat. 429-430, June 4, 1898; U. S. Cong., Senate, Agreement with Uintah and White River Ute Indians, S. Doc. No. 80, 55th Cong., 2d sess., pp. 1-5, 1899, Serial 3593.

¹⁰²Cyrus Cates Babb, "The Water Supply of the Uintah Indian Reservation, Utah," in Surveys and Examination of Uintah Indian Reservation, H. Doc. No. 671, 57th Cong., 1st sess., 1902, p. 20, Serial 4377. The Uintah Utes were reluctant to allow additional allotments along the Duchesne River.

¹⁰³32 Stat. 263, May 27, 1902, Part 1; 32 Stat. 998, Part 2, March 3, 1903; O'Neil, "The Reluctant Suzerainty," pp. 137-139.

¹⁰⁴U. S. Cong., House, Grant of Lands for Use of Certain Indians, H. Doc. No. 33, 58th Cong., 1st sess., 1903, pp. 3-4, Serial 4565.



the allotment and opening in 1903, found them extremely reluctant to sign an agreement. After six days of talks he reported to Secretary of the Interior Ethen A. Hitchcock:

that the signers were as much opposed to the opening of the reservation without consulting the Indians as the nonsigners were, but they thus expressed their acceptance of the law to show their good will and readiness to comply with the wishes of the Government.¹⁰⁵

Although the inspector did not convince a majority to sign, McLaughlin believed that he had "succeeded in bringing them to understand that their reservation is going to be opened as provided in the act that its survey will soon be commenced, and when completed allotments will be made to them, after which the residue will be opened to settlement."¹⁰⁶ Inspector McLaughlin acknowledged the shortcomings of the allotment policy and urged the Secretary to reserve grazing, coal, and timber lands for the tribe.¹⁰⁷

The initial Uintah Allotment Act of June 4, 1898, made no special provision for the disposal of the Uintah timbered lands, which covered about thirty percent of the reservation. The economic value of the timber was limited by the isolation of the Uintah Basin, but the timbered lands were significant for development within the basin. Since the timber lands were not to be allotted, it was assumed that they would be ceded to the United States and their future determined by Congress.¹⁰⁸

The Indian Appropriation Act of 1903 postponed the opening of the reservation. The act also authorized the establishment of a grazing reserve not to exceed 250,000 acres for the Indians south of the Strawberry River.¹⁰⁹ The grazing area was about seventy miles from

¹⁰⁵Ibid., p. 5.

¹⁰⁶Ibid., p. 7.

¹⁰⁷Ibid., pp. 7-8.

¹⁰⁸Werner Kiepe, "Appraisal Report Prepared for the United States Department of Justice, Lands Division, Indian Claims Section, Washington, D. C., for Case No. 45, before the Indian Claims Commission, *The Uintah Ute Indians of Utah vs. The United States*" (Clearwater Publishing Co., microfiche, 1973), p. 52. Kiepe quotes extensively from R. E. Benedict, "Forest and Forest Conditions of the Uintah Indian Reservation-Utah" (1902). R. E. Benedict, an inspector employed by the Bureau of Forestry, made the first professional evaluation of the Uintah forests in 1902.

¹⁰⁹32 Stat. 998, March 3, 1903, Part 2.

where most of the Uintah Utes lived, and the Secretary of the Interior urged Congress to revise the law to give the Indians a grazing reserve closer to their homes.¹¹⁰

The Indian Appropriation Act of March 3, 1905, rescheduled the opening of the Uintah Reservation. The act also included a clause repealing that part of the 1903 law providing for the Strawberry grazing reserve and granted the Secretary of the Interior authority to set aside common grazing lands for the Indians at Deep Creek.¹¹¹ Furthermore, the act authorized the President to set aside a part of the reservation as an addition to the Uintah Forest Reserve and provided "That the proceeds from any timber on such addition as may with safety be sold prior to June thirtieth, nineteen hundred and twenty, shall be paid to said Indians in accordance with the provisions of the Act opening the reservation."¹¹² On July 14, 1905, President Roosevelt detached a large area of the Indian reservation from the tribes and attached it to the Uintah Forest Reserve, renamed the Uintah National Forest. At the same time he issued a proclamation opening the Uintah Reservation to non-Indian entry, on August 28, 1905 (See Map 9).¹¹³

A year after the Uintah Reservation was opened, Congress authorized the construction of an irrigation system to irrigate the allotted lands.¹¹⁴ Known as the Uintah Irrigation Project, the system was funded from the proceeds of sales of lands within the former Uintah Reservation. The plan was that after the Indians became self-supporting, they would be expected to reimburse the United States Treasury for any costs in excess of the amount received from the land sales.¹¹⁵

¹¹⁰Secretary of the Interior to Commissioner of Indian Affairs, December 13, 1904, Letters Received by the Office of Indian Affairs, 1881-1907, RG 75, NA.

¹¹¹33 Stat. 1069, March 3, 1905, Part 1.

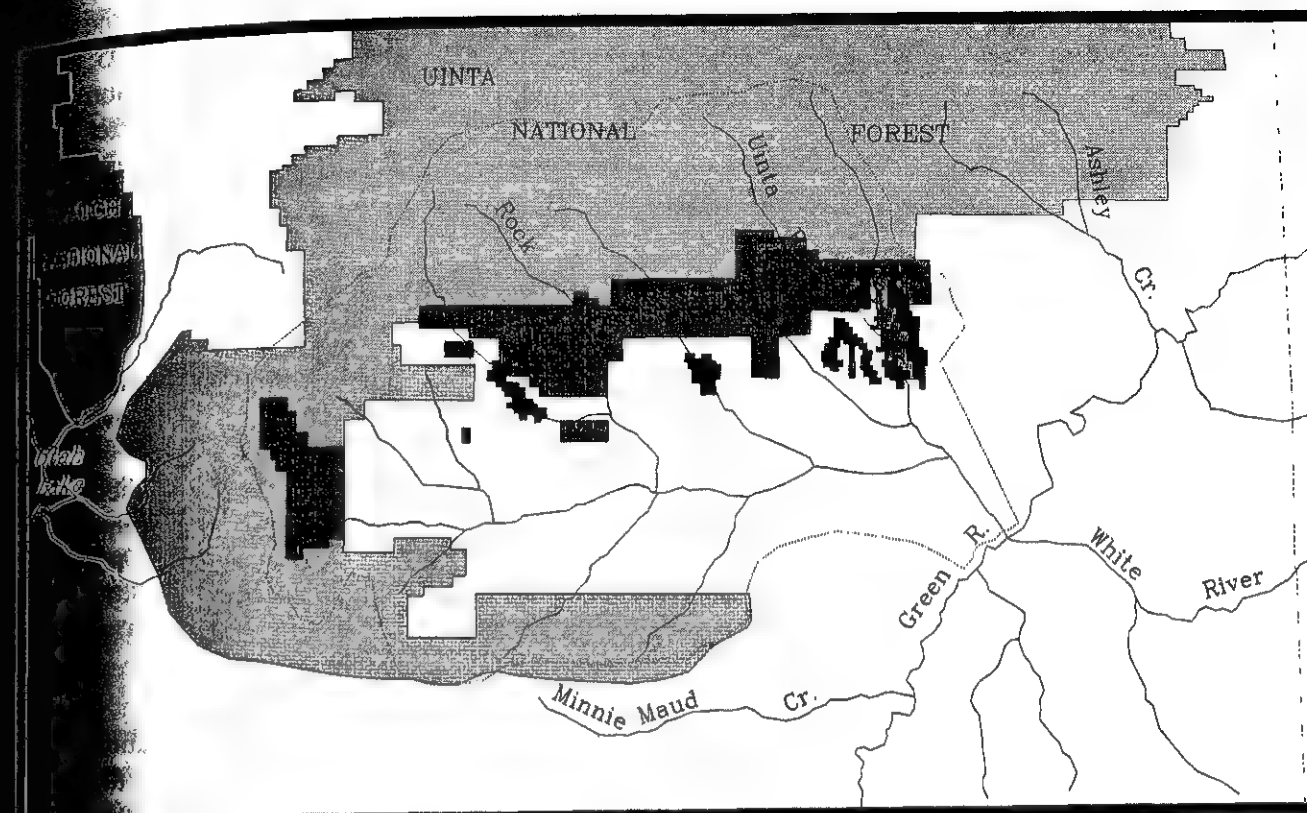
¹¹²33 Stat. 1070, March 3, 1905.

¹¹³34 Stat. 3116, July 14, 1905, Part 3. The forest reserves were renamed National Forests in 1905.

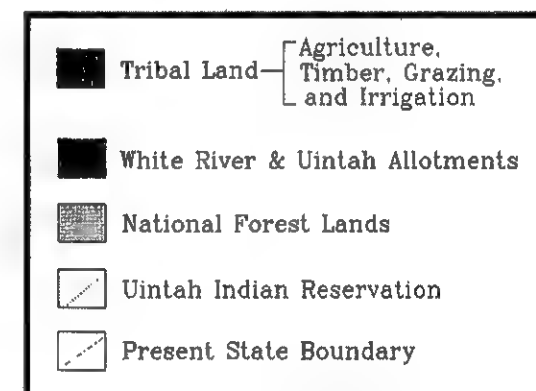
¹¹⁴34 Stat. 375, June 21, 1906, Part 1.

¹¹⁵Wayne O. Yargus, "A Forest Management Plan for The Uintah and Ouray Indian Reservation, Utah," 1960, p. 8, Bureau of Indian Affairs, Division of Resources, Branch of Forestry, Phoenix Area Office; U. S. Cong., House, Conditions on Uintah Indian Reservation, Utah, H. Doc. No. 892, 62d Cong., 2d sess., 1912, pp. 2-4, Serial 6323. James McLaughlin and E. P. Holcombe, preparers of this House report, were critical of the administration of the Uintah Irrigation Project. They feared the Indians would lose their water rights, and also criticized the Forest Service for its failure to consider the Indians' interests in its management of the National Forest.

MAP 9



Opening of Uintah Reservation, 1905



Source: A History of the Northern Ute People
Cartography by: Glenn Walter

Included in the several acts of Congress and Presidential proclamations that led to the opening of the Uintah Reservation were a series of provisions designed to reserve land for the Strawberry Valley Project, Utah's first federal reclamation project.¹¹⁶ On December 15, 1905, Secretary of the Interior Hitchcock approved the project, and on March 6, 1906, construction was authorized. In spite of persistent tribal protests, the agricultural, timber, mineral, and water resources belonging to the Uintah, White River, and Uncompahgre Utes were divided, and the overwhelming share of those assets were placed in the hands of individual white settlers, federal agencies, and corporations.¹¹⁷

The allotting and opening of the Uintah and Ouray Indian Reservation between 1898 and 1905, which was envisioned by reformers and Congress as a means to start the Utes on the road toward civilization, proved to be a source of impoverishment and despair for the Utes. In a desperate effort to protest continued encroachment and to secure a haven where they might live in peace, an estimated 700 Utes left the Uintah Reservation and fled to *p1742X Lakota in 1906.¹¹⁸ The Lakota did not welcome them because of the diminishing land on their reservations. There was little for them to do, and even the leadership of the Indian Rights Association expressed little sympathy for the Utes' plight.¹¹⁹ In 1908, they returned to the Uintah Reservation and began to adjust to the diminished reservation.

2.12 Re-establishing the Uintah and Ouray Political and Economic Base

The aftermath of allotment proved to be an era of severe economic and social dislocation for the tribesmen of the Uintah and Ouray Reservation. Between 1910 and 1930, the Reclamation Service, the Forest Service, the Dry Gulch Irrigation Company, and a multitude

¹¹⁶Thomas G. Alexander, "An Investment in Progress: Utah's First Federal Reclamation Project, The Strawberry Valley Project," *Utah Historical Quarterly*, Vol. 39, No. 3 (Summer, 1971), pp. 286-304; Kathryn L. MacKay, "The Strawberry Valley Reclamation Project and the Opening of the Uintah Indian Reservation," pp. 75-89. Alexander's laudatory description of the Strawberry Project ignores the negative impact the project has had on the Uintah Indians and their water rights. MacKay's article portrays the creation of the Strawberry Project as an instance in which the United States Government not only did not protect the Indians' interests but through the actions of federal agencies, the Bureau of Reclamation and the Forest Service, participated in stripping the Uintah Indians of their grazing, timber, and water resources.

¹¹⁷MacKay, "The Strawberry Valley Reclamation Project," pp. 84-89; O'Neil and MacKay, *A History of the Uintah-Ouray Ute Lands*, pp. 33-35.

¹¹⁸Floyd A. O'Neil, "An Anguished Odyssey: The Flight of the Utes, 1906-1908," *Utah Historical Quarterly*, Vol. 36, No. 4 (Fall, 1968), pp. 315-320.

¹¹⁹*Ibid.*, pp. 323-325.

of non-Indian ranchers and farmers continued to gain control of Ute water, land, and timber assets.¹²⁰

In 1911, Secretary of the Interior William A. Fisher sent E. P. Holcombe, Chief Supervisor, and James M. McLaughlin, Inspector, to assess the conditions on the Uintah Reservation. The inspectors concluded that the previous decade's legislation had been costly to the Ute Indians of the Uintah and Ouray Reservation. They feared that unless a concerted effort was made to confirm the Indian water rights, the land and irrigation systems would pass to non-Indian owners with no compensation to the Utes. They also concluded that United States Forest Service policies denied the Utes income from grazing and forest use permits, and that through the sale of inherited allotments the Indian land base was continually being reduced.¹²¹

In 1921, J. P. Kinney, Chief Supervisor of Indian Forests, requested that the Forest Service provide information regarding receipts for timber harvested on the Uintah National Forest before 1920. He found no records that indicated the Forest Service had been making such deposits.¹²² When the Uintah Utes again raised the issue of payments for lands which were taken from them for a forest reserve in 1905, they found that in addition to cutting timber from the land, the Forest Service had leased the land to grazers and had made money on the permits. The Uintah tribesmen believed that they should receive part of that money.¹²³

A Senate Sub-committee that examined the Utes' claims found that no payment had been made to the Uintah even though \$700,000 worth of timber had been cut and the land had been leased for grazing. The Indians did not wish the lands returned, for the timber had been cut from them and the land had been extensively grazed. They desired compensation for their loss.¹²⁴

¹²⁰O'Neil and MacKay, *A History of the Uintah-Ouray Ute Lands*, pp. 33-35.

¹²¹U. S. Cong., House, *Conditions on Uintah Indian Reservation*, Utah, H. Doc. No. 892, 62d Cong., 2d sess., 1912, pp. 2-6, Serial 6323.

¹²²J. P. Kinney to Mr. Meritt, Memorandum, April 4, 1921, 39140-21-339, Uintah and Ouray Central Classified Files, RG 75, NA.

¹²³Oran Curry to John Collier, June 24, 1926, Sen. 83A-F9, Bills, Committee on Interior and Insular Affairs, 83rd Cong., RG 46, NA.

¹²⁴Sub-committee Report on S. 615, n.d., Sen. 83A-F9, Bills, Committee on Interior and Insular Affairs, 83rd Cong., RG 46, NA.

Congress allowed the Uintah to present their case before the Court of Claims.¹²⁵ The Court of Claims awarded them compensation, and on February 13, 1931, Congress appropriated \$1,217,221.25 to pay to the Uintah, White River, and Uncompahgre bands of Ute Indians, for land withdrawn from entry and sale by the Executive Order of July 14, 1905, and included in the Uintah National Forest.¹²⁶

The Indian Reorganization Act of 1934 stimulated the movement, begun by the Court of Claims cases, of restoring the Uintah and Ouray economy through federal financial support, restoration of land, and strengthening the tribes' political structure.¹²⁷ First, the act ended allotment in severalty of Indian lands and extended the periods of trust on existing allotments. The Secretary of the Interior was also authorized to restore to tribal ownership reservation lands that had been opened to entry and exchange land to consolidate Indian holdings. The act encouraged the tribes to purchase additional land and appropriated funds to make such purchases. The act supported the rebuilding of tribal political and economic life through tribal constitutions and tribal business councils.

The Indian Reorganization Act of 1934 intended to establish the reconstruction of tribal cultural, economic, and political life as the core of federal Indian policy. The act's sponsors claimed that it was designed to reverse the dissolution of Indian tribal life and landholdings that had guided Indian policy since 1887.¹²⁸

The Uintah and Ouray tribe accepted a charter under the terms of the Indian Reorganization Act on August 10, 1938, and soon began efforts to restore the tribal lands. In the 1930s and 1940s the Utes contended with non-Indian cattlemen for 220,000 acres of grazing land held in trust by the United States to sell for the account of the Ute Indians. This land was part of the Ouray Reservation taken from the Uncompahgre Utes and made a part of the public domain at the time of allotment. Most of the land was used by non-Indian stockmen, but the Indian Reorganization Act granted the Secretary of the Interior authority to restore it to the Indians. Tribesmen, non-Indian stockmen, and Department of the Interior negotiated a compromise through which 61,000 acres would be restored to the Utes, and the remaining 159,000 acres would remain public domain. In addition, the Indians would be entitled to compensation for the lost 159,000 acres, and the bill provided that after the restoration of the

¹²⁵Report on S. 3080, "A Bill for the Relief of the Uintah and White River Tribes of Ute Indians of Utah, n.d., Sen. 83A-F9, Bills, Committee on Interior and Insular Affairs, 83rd Cong., RG 46, NA.

¹²⁶46 Stat. 1092-1093, February 13, 1931, Part 1.

¹²⁷48 Stat. 984-989, June 18, 1934, Part 1.

¹²⁸48 Stat. 984-988, June 18, 1934, Part 1.

61,000 acres, the Secretary of the Interior would have no further authority to restore land in Utah to Indian ownership.¹²⁹

Before the Utes could establish a permanent livestock industry, the land issue had to be resolved. The Utes claimed that they had carried out their part of the agreements made at the time of allotment, but the United States had not maintained the Utes' grazing privileges.¹³⁰

A large portion of the ceded land was used by non-Indians who controlled the stock water.¹³¹ The Secretary of the Interior prepared executive orders that would restore the ceded land to the Uintah Reservation. When the orders were delivered to the Official Register, Utah Senator Abe Murdock prevented the orders from going into effect.¹³² Eventually, the Ute tribesmen persisted in seeking a restoration, and on August 25, 1945, the Secretary of the Interior restored 236,249.91 acres of ceded land to the reservation under the authority of the Indian Reorganization Act.¹³³

On March 11, 1948, Congress settled the conflict by adding the Hill Creek Extension to the Uintah and Ouray Indian Reservation (See Map 10).¹³⁴ The addition extends south from the area just east of the town of Ouray to the Roan or Brown Cliffs, restoring to the Utes a large section of the old Ouray or Uncompahgre Reservation. The Hill Creek Extension, which added 500,000 acres to the Uintah and Ouray Reservation, was the culmination of efforts extending back to 1929 to rebuild the Utes' land base.¹³⁵

¹²⁹U. S. Cong., House, Restoring and Adding Certain Public Lands to the Uintah and Ouray Reservation in Utah, H. Rept. No. 2516, 77th Cong., 2d sess., 1942, Serial 10665.

¹³⁰Uintah and Ouray Jurisdiction, "Uintah and Ouray Reservation, Utah, Diminished Portion, Ceded Portion, Indian Special Grazing Portion," March, 1944, File: Planning, Branch of Forestry, Uintah and Ouray Agency, Ft. Duchesne, Utah, Bureau of Indian Affairs, Phoenix Area Office.

¹³¹Ibid.

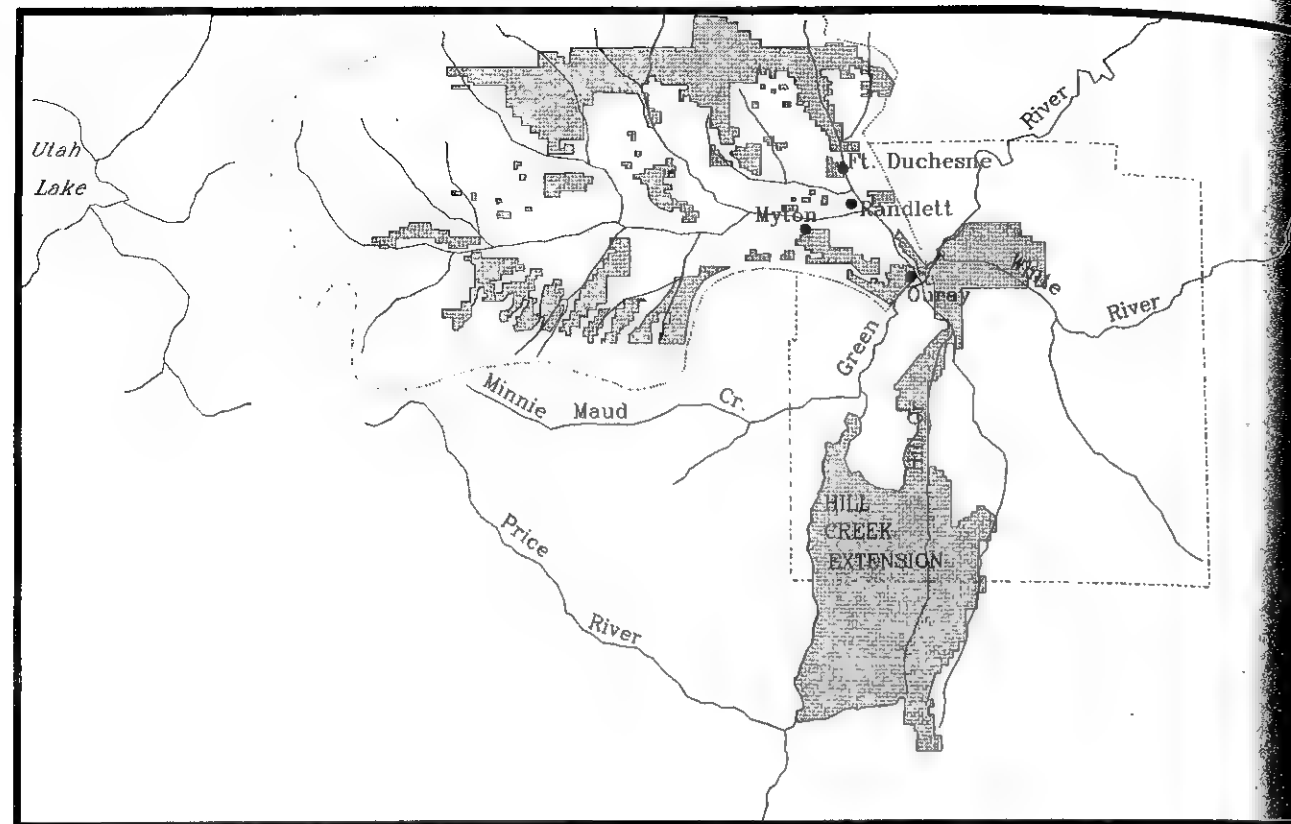
¹³²James Nephi and John Nick to Senator Joseph C. O'Mahoney, September 28, 1945, Sen. 83A-F9, Bills, Committee on Interior and Insular Affairs, 83rd Cong., RG 46, NA.

¹³³Yargus, "A Forestry Management Plan for the Uintah and Ouray Indian Reservation," p. 8.

¹³⁴62 Stat. 72-78, March 11, 1948.

¹³⁵"Recommendations for an Emergency Program for the Utes," Uintah and Ouray Tribal Planning Board, April 4, 1951, pp. 7-8, 18570-51-339, Central Classified Files, Uintah and Ouray, RG 75, NA.

MAP 10



1948 Hill Creek Extension

Source: A History of the Northern Ute People

Cartography by: Glenn Walter

2.13 Conclusion

For a century the several bands of Ute Indians who were located on the Uintah and Ouray Reservation struggled against persistent opponents who tried to deny them access to and use of their natural resources: their land, water, minerals, and timber. For the most part, they lost these battles. Although they eventually were awarded some compensation, that money did not restore the timbered lands, the grazing lands, the mountain streams, and the arable lands that had been taken from them.

The United States Indian policy, carried out during the last half of the nineteenth century and the first third of the twentieth, in the name of progress and civilization, in fact, resulted in social dislocation and economic impoverishment. With the changes in policy expressed in the Indian Reorganization Act, the Utes were able to begin rebuilding their society and economy. That effort was not without opposition, but despite roadblocks, the Utes have persisted in their efforts to maintain their resources.

Chapter 3

Tribal and Non-Tribal Use of the Reservation Forest, 1861-1905

3.1 Introduction

Tribal communities lived in the Uinta Basin for centuries, and more recently, whites settled in the basin. Each culture appropriated the landscape's varied resources to build their communities. As a result, tribal and non-tribal basin residents utilized the region's forests in both similar and dissimilar ways. The basin's first residents, the tribesmen initially used the forest resources to provide them food and shelter. After the creation of the Uintah Reservation in 1861, the Indian Service imported the first sawmill to the Uinta Basin and expanded the utilization of the tribesmen's forests by manufacturing lumber for government, tribal, and even settler consumption. Thus began in 1861 the United States government's high energy forest use, employing mechanical logging practices. This industrial approach stands in contrast to the tribesmen's lower energy forest use prior to 1861 which was based on human muscle.

The introduction of a government sawmill was not intended to encourage the development of a reservation lumber industry. Instead the government planned to use the mill to cut tribal timber into wood products essential for building cabins, barns, and fences; the idea was to transform the tribesmen from Utes to farming citizens. Inadvertently, the government's sawmill enterprise provided the basis for a small-scale logging enterprise limited only by the volume of timber available for cutting. This humble beginning became the foundation of the Uintah and Ouray Reservation's forestry program and has provided sporadic employment for tribal members in logging and conservation work as well as revenues to the tribe.

3.2 Tribal Use of the Forests Before 1861

By providing food and shelter, the Uinta Basin acted like a magnet, concentrating tribal communities inside the geological depression for centuries. The basin's encircling mountains created topographical barriers that separated the basin's tribal communities from other geographical regions and tribal populations. That isolation forced the Uinta Basin populations to depend on the landscape's topography, climate, and distribution of flora and fauna for their survival.¹

The Uinta Basin historically possessed a diverse and wide variety of potential resources for tribal appropriation. The resource possibilities varied from the sagebrush desert found on the basin floor to the conifer covered mountains. These different vegetational zones supported

¹Julian H. Steward, "Basin-Plateau Aboriginal Sociopolitical Groups," Smithsonian Institute Bureau of American Ethnology, Bulletin 120 (Washington, D. C.: Government Printing Office, 1938), p. 2.

a wide array of plant life. Sagebrush-grasslands covered the basin floor and the lower mountain slopes; as the elevation rose, the tribesmen had access to pinyon-juniper, ponderosa pine, aspen, spruce and fir habitats. These complex vegetational zones also supported a wide variety of fauna. The fauna populations increased with the altitudinal changes beginning with the sagebrush-grass, mountain brush, and pinyon-juniper zones and then declined near the timberline. As a result, tribesmen living in the Uinta Basin utilized a wide array of plant and animal resources that were available to them.²

The Desert Archaic Culture represented the first inhabitants of the Uinta Basin; they were followed by the Fremont Culture. This latter culture built their settlements at elevations between 5,000 and 6,000 feet, enabling them to travel both to lower elevations to harvest pinyon nuts and to higher elevations to hunt bighorn sheep.³

The Ute were the most important pre-reservation basin residents. Ute tribes, from 1650 until 1850, "were organized into large summer hunting bands named either for a geographic feature of the territory they inhabited or for a particular subsistence resource that they exploited."⁴ As a result, the Uintah Ute were the recent historic Uinta Basin tribe and were named after the basin. The Uintah Ute controlled the territory from "Utah Lake east through the Uinta Basin to the Tavaputs Plateau in the Green and Colorado river systems."⁵ Regarding the Uintah Ute territory, anthropologist Julian Steward observed that "The entire country east of the Wasatch Mountains and south of the Uintah Mountains was held by Ute within historic times."⁶

The physical environment of the Uinta Basin presented "ecological factors [which] imposed certain conditions to which [Ute] society had to conform and provided limits within which it could vary."⁷ For example, the basin's high elevation and low rainfall prohibited Ute

²Kimbal T. Harper, "Historical Environments," in Warren L. D'Azevedo, Handbook of North American Indians, Great Basin (Washington, D. C.: Smithsonian Institute, 1986), pp. 51-60.

³Philip L. Fradkin, Sagebrush Country: Land and the American West (New York: Alfred A. Knopf, Inc., 1989), pp. 53-55.

⁴Donald G. Callaway, Joel C. Janetski, and Omer C. Stewart, "Ute," in Warren L. D'Azevedo, Handbook of North American Indians, Great Basin (Washington, D. C.: Smithsonian Institute, 1986), p. 354.

⁵Ibid., p. 339.

⁶Steward, "Basin-Plateau Aboriginal Sociopolitical Groups," p. 222.

⁷Ibid., p. 236.

farming activities.⁸ On the other hand, these ecological limitations forced the Ute to rely on the region's large and varied resources and they clearly understood that not one resource could provide them with all their needs. As a result, they decided to become ecological generalists, not ecological specialists. They developed mobile appropriation strategies where community residents traveled from lower to higher elevations to take advantage of seasonal changing resources.⁹

Ute communities were small, especially during the pre-horse era, forcing the communities to concentrate on gathering widely scattered resources that were found on the basin sagebrush-grass floor to the mountain alpine forests. Before the horse, their movements were limited to foot expeditions. The horse enhanced their mobility, allowing them to transport larger quantities of foodstuffs greater distances to their homes. This enabled the Utes to expand their movements beyond the Uinta Basin and to live in larger communities.¹⁰

The Uintah Utes harvested many species of grasses and non-domesticated vegetables and berries. They had access to ten different species of bunchgrass all yielding edible seeds. Considering all available plants, "the Utes had as many species of edible grasses as their [Great] Basin counterparts, but they had them in greater quantities than elsewhere." The well-watered Uinta Basin valleys "produced large fields of wild potatoes, yampa, and camas." When compared to the Western Great Basin tribes, "They also had [access to] more berry-producing shrubs and dense and productive root grounds (easily harvested in considerable quantities)."¹¹

The Uintah Ute harvested berries, roots, seeds, and nuts. The major berries included silver buffaloberry (*Shepherdia argentea*), soapberry (*Shepherdia canadensis*), chokecherry (*Prunus virginiana*), currants (*Ribes aureum*), gooseberries (*Ribes*), juniper berries (*Juniperus scopulorum*), red raspberries (*Rubus strigosus*), serviceberry (*Amelanchier alnifolia*), wild plum (*Prunus americana*), elderberry (*Sambucus*), and wild strawberry (*Fragaria vesca*).¹²

⁸John A. Jones, "The Sun Dance of the Northern Ute," Smithsonian Institute, Bureau of American Ethnology, Bulletin 157 (Washington, D. C.: Government Printing Office, 1955), p. 213.

⁹Beverly P. Smaby, "The Mormons and the Indians: Conflicting Ecological Systems in the Great Basin," American Studies, Vol. 16 (Spring, 1975), pp. 36-38.

¹⁰Jones, "The Sun Dance of the Northern Ute," pp. 218, 254. For a discussion of Northern Ute hunting and harvesting practices, see Anne M. Smith, Ethnography of the Northern Utes, Papers in Anthropology No. 17 (Santa Fe: Museum of New Mexico, 1974).

¹¹Callaway et al., "Ute," p. 337.

¹²Ibid., p. 338.

The Uintah Ute also utilized Uinta Basin plant roots for subsistence. The roots came from the sego lily (*Calochortus nuttallii*), camas (*Camassia quamash*), yampa (*Perideridia gairdneri*), biscuit root (*Cymopterus*), Indian potato (*Orogonia linearifolia*), brake fern (*Pteridium aquilinum*), wild potato (*Solanum jamesii*), and woks (*Nuphar polysepalum*).¹³

Seeds and nuts provided additional subsistence for the Uinta Basin residents. The major seeds were taken from pigweed (*Amaranthus retroflexus*), guaco (*Cleome serrulata*), Indian ricegrass (*Oryzopsis hymenoides*), and sunflower (*Helianthus annuus*). Both the single leaf (*Pinus monophylla*) and double leaf (*Pinus edulis*) pinyon species provided nuts.¹⁴

The principal plant harvesting locations were not owned individually among either the Uintah Utes or the other Ute bands that moved to the Uintah Reservation. Instead, communal access was practiced where harvesting grounds were open to local and non-local Ute appropriation. The visitors, however, were expected "to request the use of resource areas, but there was little etiquette or ceremonialism involved."¹⁵

Not only did the Uinta Basin environment influence Ute resource selection and appropriation patterns, but the Ute people also manipulated the region's flora. The use of fire was the most common method employed to alter the landscape. Great Basin tribesmen set fires to increase non-domesticated tobacco production and to increase grass production. This practice enabled them to harvest greater quantities of specific foodstuffs as burned-over lands produced greater quantities of tobacco and grasses. They also deliberately broadcast sowed non-domesticated plant seeds and even practiced limited pruning methods to increase specific plant production.¹⁶

Uintah Utes perceived plants to be important for subsistence and medicinal purposes, but also for their role in revealing the tribal world view. For example, ceremony often accompanied the harvesting of pinyon nuts which partially explains Great Basin peoples' reluctance to harvest pinyon trees.¹⁷

Hunting complemented Ute's Uinta Basin plant harvests. Deer, antelope, and bighorn sheep comprised the major source of mammals in their diet, but they also hunted bison, elk, and

¹³Ibid.

¹⁴Ibid.

¹⁵Ibid., p. 340.

¹⁶Catherine S. Fowler, "Subsistence," in Warren L. D'Azevedo, *Handbook of North American Indians, Great Basin* (Washington, D. C.: Smithsonian Institute, 1986), pp. 93-95; Callaway et al., "Ute," p. 343.

¹⁷Fowler, "Subsistence," pp. 95-96.

moose. The tribesmen's burning activities enhanced the region's large game numbers, especially mule deer populations, because regularly set fires maintained browse material.¹⁸ The basin Utes employed communal rabbit hunts; individuals and small groups hunted sage grouse and waterfowl to supplement their diets. Similarly, the Utes did limited fishing in the basin's streams.¹⁹

Mobility was an essential survival strategy for the basin Utes. By changing resource appropriation locations, the Utes exploited a wide array of basin plants and animals. This low energy, cultural approach to resource harvesting resulted in minimal alterations to the landscape. Their appropriations strategies were in sharp contrast to Western man's high energy scheme of resource utilization, essential to supply foodstuffs and building materials to growing, permanent settlements. As a result, the mobile Utes were perceived by the newcomers as trespassers on their own lands when outside settlement began.²⁰

3.3 Early Uinta Basin Forest Reconnaissance

White travelers passing through the Great Basin in the early nineteenth century provided the initial indications that the Uintah Ute's appropriation of the Uinta Basin landscape would change. The first outsiders were explorers and fur trappers who made few changes to the landscape; they neither forced the Utes to change their land use patterns nor did they alter the landscape, but they were a prelude to a future which held many changes.

The Mormon settlement of the Salt Lake region in 1847 radically changed the tribesmen's land use patterns. The new residents established permanent close-knit ecclesiastical communities. Mormons collectively appropriated and controlled the territory's limited resources, mainly water and timber, essential to develop an agricultural based economy. The Utes' customary practice of moving from locale to locale harvesting plants and hunting animals looked like trespassing to the Mormons. Therefore, the Mormon settlers constructed boundaries to define and mark tribal and non-tribal communities and tribal and non-tribal resources. Mormons, like other whites, increased the exploitation of the landscape's resources, especially timber, to support their growing settlements.²¹

Nineteenth century America was a timber dependent nation. Although timber was widely employed in many applications, its supply was limited in Utah Territory. Lumber was necessary for building these new Mormon communities, but trees were an ecological limiting factor during the initial period settlement of Utah Territory.

¹⁸Ibid., pp. 79, 93.

¹⁹Callaway et al., "Ute," p. 341-343.

²⁰Smaby, "The Mormons and the Indians: Conflicting Ecological Systems," pp. 42-46.

²¹Ibid.

Because of the importance of timber resources to the building of American communities, nineteenth century exploring and scientific expeditions were careful to report on the magnitude of Utah Territory's local timber resources. Pre-Civil War scientific expeditions were the first to accumulate data on the Uinta Basin's timber resources. John C. Fremont, during his railroad survey of the 41st and 42nd parallels in 1854, observed the Uinta Mountains and wrote that "pine and fir are found on the Uinta mountains and terrace[s]." ²² As for the region's lumber potential, J. G. Cooper reported in 1858 that Utah timber forests were unexplored and possessed no "peculiar" trees. Cooper added, "but as the mountain summits are usually well wooded, some [peculiar trees] may be hereafter found." ²³

Subsequent post-Civil War scientific expeditions added more forestry information to the existing scanty evidence previously gathered. Clarence King traversed the Uinta Mountains in 1867 while leading the United States Geological Exploration of the Fortieth Parallel. King claimed that "a superb forest growth" covered the Uinta Mountains. ²⁴ The King expedition geologists, S. F. Emmons and Arnold Hague, described the Uinta coniferous forest as growing as low as 7000 feet on the south side of the Uinta Mountains and reaching an elevation of 11,000 feet. The species included Engelmann spruce, ponderosa pine, and Douglas-fir on the higher elevations while juniper dominated the lower conifer forest. ²⁵ King's botanist, Seronon Watson, reported that large cottonwood trees and oak trees were growing on the basin's canyon floors. ²⁶

²²U. S. Cong., Senate, Reports of Explorations and Surveys to Ascertain the Most Practical and Economical Route for a Railroad from the Mississippi River to the Pacific Ocean, 1853-1854, S. Exec. Doc. 78, Vol. 1, 33rd Cong., 2d sess., p. 62, Serial 758.

²³J. G. Cooper, "On the Distribution of the Forests and Trees of North America, With Notes on its Physical Geography," Annual Report of the Board of Regents of the Smithsonian Institution for 1858 (Washington, D. C.: William A. Harris, Printer, 1859), p. 269.

²⁴Clarence King, "Systematic Geology: U. S. Geological Exploration of the Fortieth Parallel," Report of the Geological Exploration of the Fortieth Parallel, Professional Papers of the Engineer Department, U.S. Army, No. 18, Vol. 1 (Washington, D.C.: Government Printing Office, 1878), p. 10.

²⁵Arnold Hague and S. F. Emmons, "Descriptive Geology: U. S. Geological Exploration of the Fortieth Parallel," Report of the Geological Exploration of the Fortieth Parallel, Professional Papers of the Engineer Department, U.S. Army, No. 18, Vol. 2 (Washington, D. C.: Government Printing Office, 1877), p. 195.

²⁶Seronon Watson, "Botany: U. S. Geological Exploration of the Fortieth Parallel," Report of the Geological Exploration of the Fortieth Parallel, Professional Papers of the Engineer Department, U.S. Army, No. 18, Vol. 5 (Washington, D.C.: Government Printing Office, 1879), p. xxxvii.

Following King's survey, John Wesley Powell organized a river rafting expedition of the Green River in 1869. Two years later, Powell once again rafted the Green River. From these expeditions, the explorer collected data from which he prepared his landmark study of the region. ²⁷ Powell discovered limited marketable timber on the Uinta Mountains growing in irregular, spontaneous stands. He added that pine, spruce, and fir occupied higher elevations and that "scattered" dwarf pinyon and cedar stands dominated the lower mesas and mountain slopes. ²⁸

These mid-nineteenth century surveyors and scientists ultimately described a land of limited timber resources, the land which became the Uintah Reservation. President Abraham Lincoln's October 3, 1861, executive order created the Uintah Reservation, thus removing this irregular and scarce, but valuable, timber from free non-tribal exploitation by reserving the resource for tribal use. The boundaries of the new reservation generally followed the summits of the mountains that surrounded the Uinta Basin. The creation of a reservation placed the disposition of the area's timber resources under the control of the Indian Service, which directed the first logging and sawing operations to produce wood products essential for the successful assimilation of the tribesmen into American society.

3.4 Reservation Logging and Milling Operations, 1861-1905

Few Utes lived on the new reserve in 1861 but Indian Service officials believed that the reservation's timber was crucial to the government's plan to attract as many Utes as possible to the new reservation. To achieve that objective, Indian Service officials planned to construct as many improvements as necessary to draw the Northern Utes to the Uinta Basin reservation. Officials believed that timber provided the means to provide the Utes with the trappings of civilization, especially homes and farms. ²⁹

Three years after Lincoln's proclamation, the Indian Service initiated plans to begin logging the reserve's timber. Utah Superintendent of Indian Affairs O. H. Irish began the logging program by informing Commissioner of Indian Affairs William Dole that he wanted to purchase a water-powered sawmill for the Uintah Agency. ³⁰ To prepare for the eventual arrival

²⁷John W. Powell, Report on the Lands of the Arid Region of the United States. With a More Detailed Account of the Lands of Utah, U. S. Geographical and Geological Survey of the Rocky Mountain Region (Washington, D. C.: Government Printing Office, 1879), pp. 152-164.

²⁸*Ibid.*, p. 14.

²⁹Floyd A. O'Neil, "A History of the Ute Indians of Utah Until 1890," Ph. D. dissertation, University of Utah, 1973, pp. 87-88.

³⁰O. H. Irish to William P. Dole, December 7, 1864, Letters Received by the Office of Indian Affairs, 1824-1880, Utah Superintendency, 1863-1865, M234, Roll 901, Frames 258-262, RG-75, NA.

of a sawmill, Irish ordered Uintah Indian agent L. B. Kinney, in the fall of 1864, to send "a force out there [to the Uintah Reservation] this winter to get out timber."³¹ Kinney did not send a logging crew to the reservation, but he eventually purchased a sawmill in the summer of 1865 from Dennis and Beck of Spanish Fork, Utah Territory.³²

Impropriety characterized the purchase of this mill. Even though Kinney was a government employee, he entered into a partnership with J. L. Gibb and each contributed \$1,000 of their own money to purchase the Dennis and Beck sawmill. Then, Kinney and Gibb resold the mill to the United States Department of the Interior for \$5,000. After selling the sawmill to the government, they transported it from Spanish Fork, south of Salt Lake City, to the west edge of the Uintah Reservation and located the mill in Strawberry Valley,³³ which was most likely located on upper Daniels Creek.³⁴

George M. Cousins constructed the building to house the sawmill and associated equipment in September, 1865. The former Dennis and Beck sawmill was a water-powered plant requiring the construction of both a mill race and a tail race and each extended over one mile. Cousins also constructed the timber platforms where the saw rested. In evaluating his own work, Cousins stated that this "mill was done in a very indifferent manner--Agt. Kinney & Mr. J. L. Gibbs both told me that all they wanted was to get it so that the saw would turn around--would saw one board & it would then be off their hands."³⁵ Agent Kinney had built an agency sawmill of questionable quality and safety. For his role in this scandal, the Indian Service dismissed him from all duties at the Uintah Agency.

³¹O. H. Irish to L. B. Kinney, November 12, 1864, Letters Received by the Office of Indian Affairs, 1824-1880, Utah Superintendency, 1863-1865, M234, Roll 901, Frames 248-249, RG 75, NA.

³²O. H. Irish to D. H. Cooley, Commissioner of Indian Affairs, August 28, 1866, Letters Received by the Office of Indian Affairs, 1824-1880, Utah Superintendency, 1866-1869, M234, Roll 902, Frames 153-155, RG 75, NA.

³³*Ibid.*

³⁴Daniels Creek was the suggested location for establishing a Uinta Basin reservation. Amos Reed, Clerk of Superintendent, to James Duane Doty, Superintendent, September 12, 1862, U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1862, H. Exec. Doc. No. 1, 37th Cong., 3rd sess., 1862, pp. 345-346, Serial 1157.

³⁵George M. Cousins, Testimony, September 13, 1866, William J. Ashely, Clerk, United States Supreme Court of the Territory of Utah, Letters Received by the Office of Indian Affairs, 1824-1880, Utah Superintendency, 1866-1869, M234, Roll 902, Frames 158-162, RG 75, NA.

Special Agent Thomas Carter moved the agency east to the upper Duchesne River near the current settlement of Tabonia.³⁶ Franklin H. Head became the new Superintendent of Indian Affairs replacing Irish. Head wanted to correct Kinney's sawmill errors and traveled to the Uinta Basin in the spring of 1866. In June, Head visited the Strawberry Valley to determine the quality of the mill and the availability of timber. Prior to inspecting the mill, Head believed that the Indian Service should operate the facility, but after he examined the operation, he thought "it questionable" for the Indian Service to manage the plant. The mill was built in a location that made it expensive for the Indian Service to operate. Located eighty-five miles from Salt Lake City and fifty miles from the new agency on the upper Duchesne River, the plant was in the west basin high country where snow reached depths of thirty feet, rendering it inoperable for seven months a year. The short working season dictated that all sawing had to be completed during a five month period, a time when local labor was scarce.³⁷

The sawmill's location also increased supplemental operating costs. The mill required a large work force including a manager and a blacksmith. Other costs included purchasing oxen, cutting hay to feed the oxen, and constructing roads. For example, the road from the mill to Springville, Utah Territory, where the lumber had to be sold, was inferior and needed repair.³⁸

Day to day operations were costly. The flutter wheel that turned the saw blade required large amounts of water, approximately 800 feet per day, to run the mill. The location was characterized by low water levels which compounded the operational problems since the mill could only be operated during the summer months when the water level dropped. To improve water efficiency, Head recommended replacing the flutter wheel with an overshot wheel. Even with improvements, this sawmill could not pay the operational costs. To make matters worse, no roof covered the twenty feet by thirty feet sawmill platform made from one inch boards, exposing the machinery to the elements and encouraging rust.³⁹

Head concluded that the expenses were too great for the Indian Service to bear to permit the agency to operate the mill. To avoid a complete loss, Head wanted to lease the mill to an outsider because the lumber supply near the plant was plentiful. He wrote that "There are large forests of timber upon the Reservation; many times more than will ever be needed for its use,

³⁶Fred A. Conetah, A History of the Northern Ute People (Fort Duchesne, Utah: Uintah-Ouray Ute Tribe, printed by the University of Utah, Salt Lake City, n.d.), p. 90.

³⁷J. H. Head to Dennis N. Cooley, June 25, 1866, Letters Received by the Office of Indian Affairs, 1824-1880, Utah Superintendency, 1866-1869, M234, Roll 902, Frames 114-117, RG 75, NA.

³⁸*Ibid.*

³⁹*Ibid.*

and cutting and selling all the lumber which could be cut at the mill at its present location, would be no determinant [sic] whatever to the Reservation."⁴⁰

As an alternative to running the mill, Head decided to lease the plant and he quickly entered into a three year lease with Leonard J. Whitney, a local businessman, in June, 1866. Whitney agreed to cut trees from the reservation and to manufacture lumber at the Indian Service sawmill. In return for this privilege, Whitney was required to complete the mill building and to make necessary repairs to the physical plant. Whitney was also to provide the agency with one-fourth of all lumber cut and the volume delivered to the agency had to be at least 37,500 board feet during the first year of the lease and 62,500 board feet during the last two years of the lease.⁴¹

In 1868, during the tenure of the Whitney lease, agent Pardon Dodds moved the agency downstream on the Duchesne River to the mouth of Rock Creek. Later that year, Dodds moved the agency farther east to Whiterocks. This last location was several miles upstream from the mouth of Whiterocks Creek as it flows into the Uinta River.⁴²

The Whitney lease did not leave the Indian Service with an operational sawmill. At the end of three years, Uintah Indian agent Lieutenant George W. Graffam reported that the mill was inoperative and falling into disrepair; further, its location 170 miles west of the agency made it impossible for the agent to care for the facility. To correct that condition, Graffam suggested that the Indian Service obtain an appropriation to move the machinery closer to the agency. That would enable the agent to maintain the mill and to cut timber into lumber for government and tribal purposes.⁴³ Graffam removed the sawmill from the Strawberry Valley to the agency located on the upper Uinta River in either late 1869 or early 1870.⁴⁴

John J. Critchlow was the most important early agent to assume control of the agency. He arrived in the Uinta Basin in late 1870 and immediately abandoned any idea of salvaging the agency sawmill. Instead, he asked for an appropriation in December of that year to construct a combination sawmill, grist mill, and shingle mill. He justified his request claiming that the

⁴⁰Ibid.

⁴¹Agreement, June 22, 1866, Letters Received by the Office of Indian Affairs, 1824-1880, Utah Superintendency, 1866-1869, M234, Roll 902, Frames 118-124, RG 75, NA.

⁴²Conetah, A History of the Northern Ute People, pp. 53 (Map), 90.

⁴³U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1869, H. Exec. Doc. No. 1, 41st Cong., 2d sess., 1869, p. 675, Serial 1414.

⁴⁴J. J. Critchlow to Ely S. Parker, December 30, 1870, Letters Received by the Office of Indian Affairs, 1824-1880, Utah Superintendency, 1870-1872, M234, Roll 903, Frames 120-123, RG 75, NA.

mill would "make this Agency selfsustaining [sic]." Critchlow planned to manufacture lumber to build homes and fences for the tribesmen.⁴⁵

Early in 1871, Critchlow traveled to Salt Lake City to discuss steam mills with knowledgeable mill operators. Following his discussions with outside mill operators, he was unable to reach a satisfactory decision concerning the agency's mill requirements. Critchlow returned to the agency critical of the past water powered mill operation. He wanted a combination grist mill and sawmill and concluded that "a steam portable mill of twenty-five, or thirty horsepower would be both the best and the most economical for this Agency."⁴⁶

A small steam-powered sawmill would eliminate both the construction of a water flume and the climatic problems that often rendered the existing water powered mill inoperative. With a portable steam mill, the agency would also eliminate excessive labor costs associated with transporting logs to a fixed mill location. Critchlow estimated that a portable steam mill would cost \$10,000. To operate the new mill, Critchlow wanted a competent man, even if he had to hire an operator from the East. He wanted the sawmill to work tribal timber into lumber to build comfortable tribal homes and to build a school and other necessary agency buildings. The agent concluded that "This is a beautiful valley" and the new sawmill would "make it a home."⁴⁷

Critchlow reduced his request in April, 1871, and asked permission to purchase a sawmill that cost \$5,000. The agent stated that he could run the agency without the gristmill, but not the sawmill.⁴⁸ Several months later, he purchased the second agency sawmill for \$2900. This was a portable mill driven by a fifteen-horse power engine and with a twenty-horse power boiler built by the Eagle Manufacturing Company of Chicago, Illinois.⁴⁹

The mill was transported overland from Salt Lake to the Uintah agency. Deep snows made the journey difficult, but the portable mill was operating near the Whiterocks Agency by

⁴⁵Ibid.

⁴⁶J. J. Critchlow to Ely S. Parker, February 4, 1871, Letters Received by the Office of Indian Affairs, 1824-1880, Utah Superintendency, 1870-1872, M234, Roll 903, Frames 137-142, RG 75, NA. Emphasis not added.

⁴⁷Ibid. Emphasis not added.

⁴⁸J. J. Critchlow to Ely S. Parker, April 17, 1871, Letters Received by the Office of Indian Affairs, 1824-1880, Utah Superintendency, 1870-1872, M234, Roll 903, Frames 153-156, RG 75, NA.

⁴⁹J. J. Critchlow to Ely S. Parker, May 9, 1871, Letters Received by the Office of Indian Affairs, 1824-1880, Utah Superintendency, 1870-1872, M234, Roll 903, Frames 177-178, RG 75, NA.

January, 1872. The mill cut the timber very well, even though the logs carried a deep frost from lying uncovered and outside. By mid-summer, 1872, agency employees had cut between 50,000 board feet to 70,000 board feet, providing the agency with sawboards and fence poles.⁵⁰

Critchlow moved the agency three miles downstream from the Whiterocks site nearer the mouth of the Uinta River.⁵¹ The steam mill enabled him to construct the first permanent agency buildings in 1873. Because of the mill's importance to implementing the civilization of the Utes, Critchlow decided to protect the sawmill and ordered his agency staff to construct a permanent mill building. However, before the agency staff could begin sawing logs at the new agency site they had to repair the mill, which had been only sporadically used at the old site and had fallen into disrepair without regular maintenance. The agency staff discovered that the saw blade was sprung and that an engine check-valve was broken. A new check-valve was purchased in Salt Lake City. After repairing the sawmill, agency employees began cutting and hauling logs and manufacturing sawboards and fence poles, subsequently used by the agency. Despite mechanical failures which were compounded by distance, Critchlow wrote that personal issues were his greatest problem. He noted, "Our greatest difficulty is to secure and retain a mechanic competent to put in order and run our mill successfully. Such a one we must have."⁵²

The agency employees spent the fall and winter of 1873-1874 cutting and hauling lumber to the mill preparing to manufacture sawboards and fence poles.⁵³ Critchlow was proud of his agency lumber operation and proclaimed in the fall of 1874 that we have the employees "do all our own building and all improvements providing of lumber & without recourse to contracts."⁵⁴ In 1874, agency personnel completed the sawmill building and cut between 40,000 and 45,000 board feet and the same number of shingles. Critchlow declared that "we procure from the

⁵⁰U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1873, H. Exec. Doc. No. 1, 43rd Cong., 1st sess., 1873, pp. 675-676, Serial 1601.

⁵¹J. J. Critchlow to H. R. Clum, February 16, 1872, Letters Received by the Office of Indian Affairs, 1824-1880, Utah Superintendency, 1870-1872, M234, Roll 903, Frame 302, RG 75, NA.

⁵²U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1873, H. Exec. Doc., 43rd Cong., 1st sess., 1873, p. 629, Serial 1601.

⁵³J. J. Critchlow to Edward P. Smith, February 23, 1874, Letters Received by the Office of Indian Affairs, 1824-1880, Utah Superintendency, 1873-1874, M234, Roll 904, Frames 486-487, RG 75, NA.

⁵⁴J. J. Critchlow to Edward P. Smith, November 20, 1874, Letters Received by the Office of Indian Affairs, 1824-1880, Utah Superintendency, 1873-1874, M234, Roll 904, Frames 555-557, RG 75, NA.

forest and manufacture all our own lumber, erect our buildings, and make improvements."⁵⁵ Critchlow's energetic building program failed to encourage the tribesmen to take an interest in either building houses or becoming loggers and sawyers.

On the other hand, recent immigrants moving into the basin wanted to obtain immediately milled wood. Settlers wanting to build homes in Ashley Valley bordering the eastern edge of the Uintah Reservation, in the late 1870s, had no means of sawing lumber because they did not have access to a mill. Critchlow described their hardship noting that "there is no other mill [except the agency plant] within 150 miles." Since the agency had the only sawmill, "several of these settlers have applied to me for lumber to enable them to construct and fix up houses." Critchlow was sympathetic to the settlers' plight, but he was unable to provide them any lumber because his logging costs were high and the agency output was only adequate for agency use.⁵⁶ Also, he had no authority to sell tribal timber.

Critchlow wanted to assist the settlers, and in 1877 he submitted a cost-sharing proposal to Commissioner of Indian Affairs, John Q. Smith. The agent suggested that the settlers "deliver the logs at the mill and furnish one half the [sawing] forces, two men, to help manufacture them into lumber and dividing it equally giving them one half and retaining one half for the use of the place." Critchlow argued that this arrangement would furnish all parties with lumber. The reservation agency would not make money, but the arrangement would "cover expenses and afford such accommodations as seem to be absolutely necessary in our situation."⁵⁷

Smith approved Critchlow's joint sawmill venture, citing that the arrangement would not cost the Indian Service any additional revenue. On the other hand, the logs that the agency received would benefit the tribesmen. However, Smith added one additional stipulation: "that the logs are not to be cut from the Indian reservation."⁵⁸

After Commissioner of Indian Affairs Smith approved the cooperative logging venture, his successor Ezra A. Hayt then jeopardized the entire agency logging and milling operation by cutting the agency timber funds. To reduce government expense, Hayt unwisely reduced Peter

⁵⁵U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1874, H. Exec. Doc. No. 1, 43rd Cong., 2nd sess., 1874, p. 585, Serial 1639.

⁵⁶J. J. Critchlow to John Q. Smith, August 30, 1877, Letters Received by the Office of Indian Affairs, 1824-1880, Utah Superintendency, 1875-1877, M234, Roll 905, Frames 526-527, RG 75, NA.

⁵⁷Ibid.

⁵⁸Commissioner of Indian Affairs to the Secretary of the Interior, September 20, 1877, Letters Received by the Office of Indian Affairs, 1824-1880, Utah Superintendency, 1875-1877, M234, Roll 905, Frames 529-530, RG 75, NA.

Van Hauten's salary as mill engineer from \$1,000 per year to \$800 per year. Van Hauten immediately resigned his position, leaving Critchlow without an experienced sawyer to run the sawmill.⁵⁹

Despite the loss of his engineer, Critchlow continued the Uintah Reservation lumber operations. He intended to make the agency sawmill a working component of the nation's reservation civilization policy. The agent implemented logging and sawing operations and used the wood products to construct agency buildings on the Uintah Reservation. The relatively small tribal population was not interested in Critchlow's lumber operations. Since the tribesmen did not make any requests for manufactured lumber, the reservation sawboard demand remained low. The tribe's demand for wood products increased when Ute refugees from Colorado moved to the Uintah Reservation and the newly created Ouray Reservation in the early 1880s.

Ute discontent with the United States government turned violent at the White River agency in northwestern Colorado when Utes attacked the agency and killed agent Nathan Meeker, his family, and agency employees in September, 1879. The Utes also inflicted casualties on the United States army detachment traveling toward the agency to help protect government employees and property.⁶⁰ Congress created the Ute Commission the following year to negotiate terms for a Ute peace and relocation. In the eventual settlement, the White River Utes moved to the Uintah Reservation and the Uncompahgre Utes settled on the recently created Ouray Reservation situated at the confluence of the Green River and the White River joining the southeast corner of the Uintah Reservation.⁶¹

The Ouray Reservation remained autonomous from 1881 until 1886 when Congress consolidated the reserve with the Uintah Reservation for administrative purposes. Stretching along the lower Green River, in the south half of the Uinta Basin, the new reserve possessed very little timber. That problem had not escaped one member of the Ute Commission of 1880, Alfred B. Meacham, who expressed concern for the future demise of the scarce timber on the new Ouray Reservation. Meacham feared that if both the tribesmen and the army located buildings near the only timber sources, the trees would be quickly cut leaving the tribesmen with no lumber. Meacham noted that the new reservation was "sparsely supplied with timber," and

⁵⁹J. J. Critchlow to E. A. Hayt, September 2, 1878, Letters Received by the Office of Indian Affairs, 1824-1880, Utah Superintendency, 1878-1880, M234, Roll 906, Frame 118, RG 75, NA.

⁶⁰Conetah, A History of the Northern Ute People, p. 99. For a complete history of the affair, see Marshall Sprague, Massacre: The Tragedy at White River (Boston: Little Brown and Company, 1957), pp. 229-238.

⁶¹U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1881, H. Exec. Doc. No. 1, Part 5, 47th Cong., 1st sess., 1881, p. 37, Serial 2018.

since the army would build a post near the new reservation, "A large amount of timber will be required: already proposals are out for furnishing several hundred cords of wood."⁶²

Meacham wanted to prevent a tribal wood shortage and urged "that an order be issued prohibiting the location of the new Post nearer than 10 miles of the new Agency, and against cutting timber for army uses, nearer than 6 miles." Meacham added that "If such order be not issued the timber now standing and absolutely necessary for the Indian Department and the Indians will be stripped off in a few weeks."⁶³

The United States Army sent soldiers to the Ouray Reservation in October, 1881, but Meacham succeeded in preventing the army from taking any timber. No military post was built on the Ouray Reservation because the Indian Service prohibited construction of a post in order to preserve the scarce Ouray timber supply. As a result, the army built a post in 1882 north of the Ouray Reservation. The fort was constructed at the mouth of Ashley Canyon seven miles north of Vernal, Utah. The facility was called Fort Thornburgh after Major Thomas Tipton Thornburgh who was killed in combat against Colorado Utes in 1879.⁶⁴ A cottonwood stockade was one of the first structures that the soldiers built.⁶⁵ The commander at Fort Thornburgh did not initially cut tribal timber to fulfill the army's lumber demands, but instead located a military timber reserve below Taylor Mountain, outside the reservation, to obtain wood products.⁶⁶

The military's presence immediately created a fuel wood market because the army demanded large quantities of cord wood to heat their buildings. When the army abandoned Fort Thornburgh two years later, the military left 1,037 cords of wood which were subsequently turned over to the Ouray Indian agent for his use.⁶⁷ The military did not leave the Uinta Basin after they abandoned Fort Thornburgh. Instead, in the summer of 1886, they located a new

⁶²Alfred B. Meacham to Alonzo Bell, August 31, 1881, Special Case 112, Letters Received by the Office of Indian Affairs, 1881-1907, RG 75, NA.

⁶³Ibid., p. 2.

⁶⁴Builders of Uintah: A Centennial History of Uintah County 18721-1947 (Springville, UT: Daughters of the Utah Pioneers of Uintah County, Utah, 1947), p. 96; Thomas G. Alexander and Leonard J. Arrington, "The Utah Military Frontier, 1872-1912," Utah Historical Quarterly, Vol. 32 (Fall, 1964), pp. 34-35.

⁶⁵U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1889, H. Exec. Doc. No. 1, 51st Cong., 1st sess., 1889, p. 281, Serial 2725.

⁶⁶Builders of Uintah, p. 97.

⁶⁷Secretary of War to Secretary of the Interior, September 16, 1882, Letters Received by the Office of Indian Affairs, 1881-1907, RG 75, NA.

post, Fort Duchesne, on the Uintah Reservation mid-way between the Ouray agency and the Uintah agency on the Duchesne River.

When the military moved onto the Uintah Reservation in 1884, the soldiers began cutting tribal timber from the reservation. The Indian Service assisted the military by instructing the agent to provide reservation lumber to the army because "the military have a right to cut and use timber and hay to an amount sufficient for their necessities."⁶⁸

Not only did the military begin to cut tribal timber, but after moving to the Uintah Reservation, the army also wanted to use the aging Indian Service Uintah agency sawmill to manufacture lumber to build Fort Duchesne. Uintah agent J. B. Kinney discouraged any extensive use of the agency mill because the facility was in poor condition. To improve the agency sawing operations, Kinney tried to replace his agency mill with the Ouray sawmill in early 1886, before the soldiers arrived.⁶⁹

Ouray agent Edward L. Consau suggested that the Ouray mill should be given to the Uintah Reservation because he had no trees to cut and Uintah mill was in rough condition.⁷⁰ The United States Indian Service shipped a steam powered combination grist mill and sawmill to the Ouray Reservation in 1881 to build homes and farms for the Colorado Utes. Because of the scarcity of timber, the mill was never assembled. Then, in 1886, agent Consau described the Ouray mill purchase as a mistake, writing, "I regard the original purchase of this as a great folly, for (as I have been reliably informed) there is scarcely a dozen pine trees on the reservation suitable for sawing purposes."⁷¹

The military arrived at the Uintah Reservation and began building Fort Duchesne before Kinney could relocate the Ouray mill. That forced the army to rely on the aging fifteen year old steam mill that Agent Critchlow had purchased in 1871. Kinney described the existing

⁶⁸Robert S. Gardner, Inspection Report, June 13, 1887, p. 2, Reports of Inspection of the Field Jurisdictions of the Office of Indian Affairs, 1873-1900, Uintah and Ouray, M1070, Roll 54, RG 75, NA.

⁶⁹Edward L. Consau to Commissioner of Indian Affairs, January 7, 1886; J. B. Kinney to Commissioner of Indian Affairs, February 2, 1886, Letters Received by the Office of Indian Affairs, 1881-1907, RG 75, NA.

⁷⁰*Ibid.*; J. B. Kinney to the Commissioner of Indian Affairs, February 2, 1886, Letters Received by the Office of Indian Affairs, 1881-1907, RG 75, NA.

⁷¹Edward L. Consau to John D. C. Atkins, January 7, 1886, Letters Received by the Office of Indian Affairs, 1881-1907, RG 75, NA.

portable mill as defective, dilapidated, and dangerous.⁷² Without funds and manpower to move the Ouray mill, the Uintah blacksmith and miller repaired the old sawmill as best they could; but they were unable to repair the worn and worthless boiler, engine, and pump. Acting Uintah agent Eugene E. White predicted that "The boiler is so badly burnt and eaten by rust that there must be great danger of it exploding at any time when steam is up." White also wanted to move the Ouray mill to Uintah for safety reasons and to build tribal homes.⁷³

Post commander Colonel Frederick William Benteen and his troops arrived at the Fort Duchesne grounds in late summer 1886 and ordered his troops to build adequate shelter immediately. Benteen had a dictate to construct a permanent post. To accomplish that objective, the commander had to have access to a sawmill and he proposed to move the Ouray boiler to the Uintah agency free of cost, simply for the privilege of using the mill to manufacture lumber for the military. Acting agent White considered this an excellent proposition and urged the Commissioner of Indian Affairs to accept these terms in order to enable the Uintah agency to saw lumber for both reservations.⁷⁴

The Department of the Interior did not respond to White's request. Without authorization, Benteen was powerless to move the Ouray mill, which forced him to order soldiers to begin sawing lumber before winter at the agency sawmill. A military sawing detachment from Fort Duchesne went to the agency and fired the old Uintah mill's boiler. On November 22, at 11:00 in the morning, the boiler exploded, killing private Thomas Murphy, Company B, 21 Infantry, wounding three enlisted men (one who later died), the agency blacksmith, and farmer.⁷⁵ The boiler burst when the pressure reached eighty pounds per square inch. Acting agent White later declared "I hope I may be permitted to say that if the men were not hurt, I would be glad of the accident, because at any other time it might have killed nearly all the employes [sic], and the acting Agent also."⁷⁶

The boiler accident forced the military to act quickly and procure another sawmill. General John Porter Hatch suggested that the army move the Ouray sawmill immediately to the

⁷²J. B. Kinney to the Commissioner of Indian Affairs, February 2, 1886, Letters Received by the Office of Indian Affairs, 1881-1907, RG 75, NA.

⁷³Eugene E. White to J. D. C. Atkins, September 15, 1886, Letters Received by the Office of Indian Affairs, 1881-1907, RG 75, NA.

⁷⁴*Ibid.*

⁷⁵Reservations, Fort Duchesne, Records of the Adjutant General's Office, 1780-1917, RG 94, NA; E. E. White to Commissioner of Indian Affairs, November 22, 1886, Letters Received by the Office of Indian Affairs, 1881-1907, RG 75, NA.

⁷⁶E. E. White to Commissioner of Indian Affairs, November 22, 1886, Letters Received by the Office of Indian Affairs, 1881-1907, RG 75, NA.

Uintah agency, and he proposed that the military move the boiler and pay for the use of the mill at a rate of ten percent of all lumber sawed. The army required 200,000 board feet to construct buildings at Fort Duchesne.⁷⁷

Secretary of the Interior Lucius Q. C. Lamar agreed to Hatch's terms in early January, 1887; and by the end of February, 1887, the soldiers had moved the Ouray mill to the Uintah agency. Uintah agent T. A. Byrnes reported that the army had "placed the same in position, and is now in first class running order," at no cost to the Department of the Interior.⁷⁸ The army cut 110,000 board feet by the end of April, 1887, and gave 11,000 board feet to the agency as payment. Uintah agent T. A. Byrnes then sent 2,000 board feet to the Ouray sub-agency.⁷⁹

The army ceased using the Uintah agency sawmill in April, 1887, because the "Supply of good lumber around Indian Agency saw mill having become exhausted." As a result, Lieutenant Harry G. Trout led a sawing detachment from Fort Duchesne on April 26, 1887, with orders to repair and operate the Quartermasters Department sawmill in the military timber reserve, which was "located at a point where timber is more easy of access." Major James Randlett reported that the military sawmill would cut all the timber the post required.⁸⁰ The military continued to cut tribal timber by locating the Quartermaster's sawmill on Dry Creek cutting "the finest Bull Pine timber in the reservation, taking the best trees over 3,000 acres on Dry Creek."⁸¹

The military's presence increased the demand for wood products from tribal lands and even two mills could not keep pace with demand by 1887. That summer's escalating logging operations and growing demand for wood convinced some Utes to begin cutting, hauling, and selling cord wood. They cut 300 cords that year and sold the fuel wood for \$5 a cord. Two

⁷⁷E. E. White (telegraph) December 23, 1886, Letters Received by the Office of Indian Affairs, 1881-1907, RG 75, NA.

⁷⁸T. A. Byrnes to J. D. C. Atkins, February 23, 1887, Letters Received by the Office of Indian Affairs, 1881-1907, RG 75, NA.

⁷⁹T. A. Byrnes to J. D. C. Atkins, April 28, 1887, Letters Received by the Office of Indian Affairs, 1881-1907, RG 75, NA.

⁸⁰Reservations, Fort Duchesne, Extract from Roster of Troops serving in the Department of the Platte, May 25, 1887, p. 2, Box 39, Records of the Adjutant General's Office, 1780-1917, RG 94, NA.

⁸¹Werner Kiepe, "Appraisal Report Prepared for the United States Department of Justice, Lands Division, Indian Claims Section, Washington, D. C., for Case No. 45, before the Indian Claims Commission, The Uintah Ute Indians of Utah vs. The United States" (Clearwater Publishing Co., microfiche, 1973), p. 54.

hundred cords were for the agency use and 100 cords were purchased by the reservation traders. This was the first time that the tribesmen had ever done such work and agent T. A. Byrnes reported that he had "much trouble to get them to stop cutting."⁸²

In addition, tribesmen were hauling logs to the mill to be cut and in 1887 twelve homes were built with sawboards that were given to the agency.⁸³ With a good running mill, agency employees cut 35,000 fence poles and posts and had orders for 25,000 more for 1889, but no tribesmen received any fencing wire until all of his posts were in the ground.⁸⁴

Agent Byrnes's successor, Robert Waugh, wanted to increase the agency's lumber production and to provide more Utes with employment. As a result, Byrnes obtained Department of the Interior permission to purchase 100,000 board feet from the Utes in July, 1890. According to the sale terms, the tribesmen would cut and deliver the logs to the agency sawmill for \$15 per thousand board feet.⁸⁵ By mid-September 1890, the tribal loggers had delivered only 10,000 board feet of pine to the agency sawmill. Undaunted by this delay, agent Waugh requested permission to hire four Utes as irregular employees to operate the mill.⁸⁶

It was expected that the Utes would have difficulty completing the contract because logging and milling were new occupations for them. In addition, the Utes working in the forests also farmed and were unable to haul logs when they had farming chores to complete.⁸⁷ After one year, the tribal contract remained unfilled. Waugh also reported that many Utes were reluctant "to haul logs at times in quantities and suitable lengths as wanted." In defense of the tribal loggers, the reason for this reluctance was not an unwillingness to work, because tribal loggers cut and hauled all the wood to complete cord wood orders. Waugh explained that "the hauling of logs requires more skill and heavier horses, and they do not succeed so well." For those reasons, the agent noted, "it is a difficult matter to get our annual allowance of logs cut

⁸²U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1888, H. Exec. Doc. No. 1, part 5, 50th Cong., 2nd sess., 1888, p. 218, Serial 2637.

⁸³U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1887, H. Exec. Doc. No. 1, 50th Cong., 1st sess., 1887, p. 282, Serial 2542.

⁸⁴U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1889, H. Exec. Doc. No. 1, 51st Cong., 1st sess., 1889, p. 279, Serial 2725.

⁸⁵Robert Waugh to Commissioner of Indian Affairs, July 18, 1890, Letters Received by the Office of Indian Affairs, 1881-1907, RG 75, NA.

⁸⁶Robert Waugh to Commissioner of Indian Affairs, September 17, 1890, Letters Received by the Office of Indian Affairs, 1881-1907, RG 75, NA.

⁸⁷T. A. Byrnes to Thomas Jefferson Morgan, Commissioner of Indian Affairs, March 7, 1890, Letters Received by the Office of Indian Affairs, 1881-1907, RG 75, NA.

and hauled by them."⁸⁸ Collectively, these problems forced Waugh to award an agency timber contract to a local contractor for the remaining 55,000 board feet in the spring of 1891 to complete the contract.⁸⁹

Logging on the Uintah Reservation progressed slowly throughout the last decade of the nineteenth century. Logs were cut, hauled, and sawed into lumber that agency personnel and tribesmen alike used for construction purposes. The lumber enabled the tribesmen and agency personnel to slowly change the reservation's vista as permanent agency buildings and a small number of tribal wood homes were built on the basin floor.

The logging practices also changed the forests. The agent did not require loggers to employ any forestry practices, but simply permitted his contractor to cut the most accessible ponderosa pine. This unregulated logging activity created a shortage of specific wood stock. In 1892, Waugh reported difficulty in locating trees to cut dimensional lumber near the agency, forcing him to request, on behalf of his contractor, permission to cut in the vicinity of the military sawmill and to haul logs fifty miles to the agency.⁹⁰ Shortly thereafter, the agent moved the sawmill twelve miles west of the agency to a mountain canyon possessing adequate timber near the Uinta River.⁹¹

In addition to a growing shortage of accessible dimensional trees, the agency sawmill, taken from the Ouray Reservation in 1887, began breaking. This turn of events only compounded the lumber shortage. In 1897, the military assisted the agency in repairing the mill. Agency personnel were permitted to salvage parts from the old Quartermaster Department sawmill thus enabling the agency to keep the plant running. Agent Waugh ordered the mill moved to the mountains to decrease transportation costs, but the new high elevation location made it susceptible to heavy snowfalls. The sawmill was presently in a narrow canyon twelve miles west of the Uintah agency where it had been moved several years before to be near the logs "as all suitable milling timber is in the mountains west of the agency and that [the timber] between the agency and mill practically exhausted."⁹²

⁸⁸U. S. Cong., House, Commissioner of Indian Affairs, Annual Report, 1891, H. Exec. Doc. No. 1, Part 5, 52nd Cong., 1st sess., 1892, p. 437, Serial 2934.

⁸⁹Robert Waugh (telegraph) to Commissioner of Indian Affairs, May 6, 1891, Letters Received by the Office of Indian Affairs, 1881-1907, RG 75, NA.

⁹⁰Robert Waugh to T. J. Morgan, Commissioner of Indian Affairs, May 9, 1892, Letters Received by the Office of Indian Affairs, 1881-1907, RG 75, NA.

⁹¹James McLaughlin to Secretary of the Interior, April 8, 1901, Major James McLaughlin Papers, Correspondence and Miscellaneous Papers 1855-1937, Roll 24, Frames 508-511, Assumption Abbey Archives, Richardton, North Dakota.

⁹²Ibid.

The aging mill, now situated in the mountains, continued to operate for several more years until the winter of 1901 when snow destroyed the mill building. A heavy five foot snow fell in the high mountains and the weight forced this substantial structure to buckle. Indian Inspector James McLaughlin reported that the building was "constructed of heavy square cross-beams with good roof supporting timbers, but that the weight of the snow was greater than the rafters could support." The falling structure destroyed the mill machinery. McLaughlin reported that the mill was essential for the reservation. The tribesmen:

depend upon this sawmill for lumber they require in construction of houses, barns, etc. They cut and haul small sized logs and have them sided at the mill with which they erect the body of their buildings, and the larger logs for joists, rafters, sheathing, flooring, shingles and lath, required in finishing and completing their buildings.⁹³

McLaughlin stated that the tribesmen need a sawmill and recommended that \$2,500 be appropriated for a new facility; he also suggested that the agency staff construct the roof of the new building with an even greater pitch than that of the old structure.⁹⁴

Based on the inspector's recommendation, the new mill was built near the old structure thirteen miles northwest of the Uinta River agency. The new plant continued past sawing patterns producing short saw boards for buildings, flooring, shingles, and lathes for agency and tribal use. The sawmill was an essential piece of agency equipment since most of the timber consumed in the Basin was shipped from Oregon and it was expensive.⁹⁵

From 1861 until 1905, four Indian Service sawmills and one military sawmill operated on the combined Uintah and Ouray Reservation. These mills collectively increased reservation logging and milling operations, and changed the reservation forest use from low energy to high energy appropriation as logs were cut and manufactured into lumber for building purposes. To obtain stumpage, loggers simply cut ponderosa pines that were accessible and no plans were made to log the reservation forests according to forestry principles. As a result, trees were quickly depleted near the agency forcing loggers to move higher into the mountains to obtain sawlogs.

⁹³Ibid.

⁹⁴Ibid., Frames 509-510.

⁹⁵Minutes of Council held at Uintah and Ouray Agency, Whiterocks, Utah, by James McLaughlin, May 18, 1903, James McLaughlin Papers, Roll 25, Frame 988, Assumption Abbey Archives, Richardton, North Dakota.

3.5 Tribal Forests and Allotting the Reservation

Because of its scarcity, timber became an important resource to the success of the Uintah and Ouray allotment process; Congress wanted both tribal and non-tribal settlers to use tribal lumber in order to make improvements on tribal allotments and non-tribal homesteads. Congress's decision to allot reservations and to sell the ceded surplus lands to incoming homesteaders increased pressure on the tribesmen either to sell or to use reservation timber resources. Timber was essential to homesteaders who would build homes, barns, and fences from local wood supplies.

The first Ute allotments were issued to the Uncompahgres on the Ouray Reservation. Following congressional authorization to proceed in 1895, the Indian Service sent an allotting commission to negotiate the allotment procedure with the Uncompahgres. Two years later, Congress approved allotments "on the basis of 160 acres per household head and 80 acres to each person over eighteen years of age." In all, 83 allotments were issued on the Ouray Reservation and 243 on the Uintah Reservation; the surplus Ouray lands were returned to the public domain and opened for settlement. The Uncompahgres opposed the allotment process and the subsequent opening of their reservation to outsider settlers.⁹⁶ These allotments and the ensuing opening of the Ouray lands to settlement removed from tribal control pinyon and juniper woodlands that the Utes used for grazing stock and cutting cord wood.

Ute opposition to land allotment did not deter Congress from continuing to allot reservation lands. Congress enacted legislation in 1902 to allot the Uintah portion of the reservation, a decision which affected the reservation's northern conifer timber lands. The allotment act required that a "majority of the adult male Indians" approve the issuance of 80 acre irrigable allotments to the head of each family. Uintah Ute claims against the Uncompahgre for settling and taking allotments on the Uintah Reservations several years ago made the act tolerable to the tribesmen.⁹⁷ One month after passing the allotment act, Congress modified the legislation by passing Joint Resolution No. 31 authorizing the creation of a tribal grazing reserve to be created from non-irrigable lands and reserved for joint tribal grazing purposes.⁹⁸

To prepare for allotment on the Uintah Reservation, Congress ordered Secretary of the Interior Ethan Allen Hitchcock to estimate the extent of all tribal resources located on the Uintah Reservation and report his findings to the Congress.⁹⁹ Because timber was important to the

⁹⁶Joseph G. Jorgensen, *The Sun Dance Religion: Power for the Powerless* (Chicago: The University of Chicago Press, 1972), p. 53.

⁹⁷32 Stat. 263, May 27, 1902.

⁹⁸32 Stat. 744-745, June 19, 1902.

⁹⁹32 Stat. 575, July 1, 1902.

success of both allotment and homesteading, Hitchcock ordered the first extensive timber survey of the Uintah and Ouray Reservation in 1902.¹⁰⁰

In that year, R. E. Benedict, a Division of Forestry inspector and a trained timber expert, studied the reservation's timber resources. Benedict began his forest investigation by dividing the Uintah Reservation into four areas: the Uintah region, which included the Uinta Mountains; the Strawberry Valley region, which comprised the western reservation lands; the Badlands, which embraced the south and the central region lying between the Uinta Mountains and the southern range; and the Valley or Plains region, which lay between the Uinta Mountains and the Tavaputs Plateau.¹⁰¹

Benedict's investigation preceded both the allotment of the reservation and the reduction of the Uintah Reservation timber lands enabling him to examine the tribal timber within the undiminished reservation boundaries. After completing his study, Benedict claimed that thirty percent of the reservation contained timber lands, but that the "inaccessibility of both the timber and the Basin" greatly added to logging costs, making the region's timber uncompetitive in markets outside the area. He added that the region's timber had local importance in providing building materials and firewood but "That timber had no separate or special value apart from the land."¹⁰²

After receiving the reservation resource studies, Congress continued plans to allot the reservation. As a result, Congress passed legislation on March 3, 1903, which authorized the Secretary of the Interior to send an Indian inspector to the reservation to obtain tribal consent for allotment, as stipulated in the act of May 27, 1902. The 1903 act also included a provision authorizing the Secretary of the Interior to begin involuntary land allotment on the Uintah Reservation if the tribesmen refused to consent to allotment.¹⁰³

The Department of the Interior sent Indian Inspector James McLaughlin to the Uintah and Ouray Reservation in May, 1903, to persuade the Utes to agree to the pending land division. McLaughlin opened the Ute council on May 18, 1903 at Whiterocks, the Uintah and Ouray Reservation headquarters; and he immediately informed the assembled tribal delegates that

¹⁰⁰Kiepe, "Appraisal Report," p. 53.

¹⁰¹*Ibid.*

¹⁰²*Ibid.*, p. 68.

¹⁰³32 Stat. 998, March 3, 1903.

"There will be no change in the nature of the country but the improvements that will come when white people come in among you."¹⁰⁴

Timber was necessary to build the improvements that McLaughlin described. As a result, the role of reservation timber became an important item for discussion during the allotment council. One reason that the tribesmen opposed allotting the Uintah reserve was that the existing timber stands were inadequate to provide both the homesteaders with wood to build their improvements and to enable the Utes to continue cutting and selling cord wood.¹⁰⁵

The council minutes revealed that the Utes were depending more and more on their timber resources. For example, some Utes relied on wood products by selling cord wood for their livelihood. Speaking on behalf of the tribesmen, Uintah agent William Mercer described the Utes as hardworking cord wood loggers who sold firewood to the Indian school and the military post. To illustrate the Ute fuel wood industry and the growing dependency on wood products, Mercer added that he recently submitted a fuel wood bid for the coming year on behalf of the tribesmen which would require them to cut 1,600 cords of wood for \$8.50 a cord.¹⁰⁶

Mercer criticized the government land selection process stating that lands designated for allotment were classified as irrigable lands even though these farming lands possessed no salable trees. The agent noted that not even 50 cords of wood, let alone trees for fences and logs for homes, could be found on these valley lands, making it impossible for the tribesmen to build farms. Mercer castigated the current allotment plan proclaiming that the tribesmen's "friends in Washington have forgotten that they have taken away the timber from them." Mercer demanded that the Indian Service change the allotment plan to prevent the tribesmen from losing all their timber. If no changes were made, the tribesmen would be forced to purchase fuel wood at prices ranging from \$6 to \$10 a cord because their allotments had no wood.¹⁰⁷

Agent Mercer also emphasized the importance of preserving tribal timber lands since the proposed basin floor tribal allotments possessed no timber. To insure that the tribesmen had access to timber, the agent argued that the timber near the agency sawmill should be reserved for tribal use by being placed in a tribal timber reserve. Mercer added that most of the lumber consumed in the basin was shipped from Oregon. He added that the imported lumber was expensive, making it essential for the tribesmen to have access to a reliable, inexpensive timber

¹⁰⁴Minutes of Council held at Uintah and Ouray Agency, Whiterocks, Utah, by James McLaughlin, May 18, 1903, James McLaughlin Papers, Roll 25, Frame 955, Assumption Abbey Archives, Richardton, North Dakota.

¹⁰⁵*Ibid.*

¹⁰⁶*Ibid.*

¹⁰⁷*Ibid.*, Frame 989.

supply to build improvements on their allotments. The agent argued that even after creation of the tribal timber reserve the future homesteaders would still have access to wood.¹⁰⁸

Mercer's persuasive analysis of the Uintah allotment plan forced McLaughlin to reconsider one of Mercer's two timber concerns. The inspector refused to review the Ute allotment plan and seek new tracts of land that contained more timber because the legislation required the Indian Service to locate the allotments on irrigable lands which contained little if any timber. On the other hand, Mercer's argument for a tribal timber reserve impressed McLaughlin. The inspector wrote:

In Captain Mercer's appeal for the Indians he set forth the necessity of setting apart a tract of timber land situated northwest of the Uinta Agency, to embrace the agency sawmill, which mill, including planer, shingle and lathe machinery is located about 13 miles northwest of the agency,

and even more important, the mill provided both the agency and the tribesmen with essential building materials.¹⁰⁹

Inspector McLaughlin also made a personal expedition through the reservation and examined the lands to be allotted; he discovered for himself that "they are entirely void of timber."¹¹⁰ He added that "From a very fair knowledge of the character of the country embraced in the Uinta Reservation, I submit that I regard the setting apart of a timber reserve as absolutely necessary for the welfare of these Indians who, under the law, must be allotted irrigable lands only, and the irrigable lands of the reservation contain little or no timber."¹¹¹ To insure that the Utes had timber, McLaughlin agreed with Mercer's timber reserve plan writing that "it therefore becomes necessary that the Indian allottees have a timber reserve from which they can obtain building materials, fence posts, and fuel." As a result, he recommended that "this timber reserve to be held in common or equally apportioned among the allottees."¹¹²

McLaughlin examined the tribe's timber resources following the May, 1903, council. He observed that:

¹⁰⁸*Ibid.*

¹⁰⁹U. S. Cong., House, Grant of Lands for Use of Certain Indians, H. Doc. No. 33, 58th Cong., 1st sess., 1903, p. 5, Serial 4565.

¹¹⁰*Ibid.*, p. 6.

¹¹¹*Ibid.*, p. 5.

¹¹²*Ibid.*, p. 6.

There is an abundant supply of good pine and cedar timber in the mountains adjacent to the Uinta Agency, from which the Indians now obtain their building material and fuel; but under the provisions of the act opening the reservation, they will be deprived of all timber except what may be found to be within the tract of land to be reserved for grazing purposes.¹¹³

The inspector added that after examining the lands south of Strawberry River, he discovered little if any timber would be found within the diminished reservation, except in the extreme southwest corner of the reservation and at a great distance from the tribesmen.¹¹⁴

Based on these factors, the inspector recommended that a timber reserve be created in the grazing reserve so that all the tribesmen could obtain wood for domestic purposes. He suggested that the reserve should cover two tracts of land: one embracing the agency sawmill to provide sawboards and the other to include the dwarf cedar that stood near the agency to supply the tribesmen with posts and fuel wood. McLaughlin believed that by creating a timber reserve the Utes would have access to a wood supply which would minimize any fiscal hardship created by allotment. He concluded, "The absence of timber for building purposes and fuel on the irrigable lands of this reservation make it absolutely necessary that a reasonable tract of timber . . . be reserved for use of the Indians before the reservation is opened for settlement."¹¹⁵

Secretary of the Interior Ethan Allen Hitchcock defended McLaughlin's Uintah tribal timber reserve recommendations. Hitchcock was even willing to support legislation to reserve the timber tracts for the tribe in the forthcoming Indian Appropriation Act, which included Uintah Reservation allotment provisions. In the allotment legislation of March 3, 1905, Congress did not create tribal timber reserves within the tribal grazing reserve. Instead, Congress authorized the President to dispose of the northern reservation timber lands, not included in the tribal grazing reserve, in the following manner:

That before the opening of the Uintah Indian Reservation the President is hereby authorized to set apart and reserve as an addition to the Uintah Forest Reserve, subject to the laws, rules, and regulations governing forest reserves . . . Provided, That the proceeds from any timber on such addition as may with safety be sold prior to June thirtieth, nineteen hundred and twenty, shall be paid to said Indians.¹¹⁶

¹¹³*Ibid.*

¹¹⁴*Ibid.*

¹¹⁵*Ibid.*

¹¹⁶33 Stat. 1070, March 3, 1905.

On one hand, the Uintah allotment act was silent on the creation of the tribal timber reserve, leaving the establishment of a reservation timber reserve within narrow confines of the grazing reserve to the Department of the Interior; on the other hand, Congress reduced the tribe's timber resources by removing the northern conifer forests from tribal control and placing these lands under the jurisdiction of the United States Forest Service.

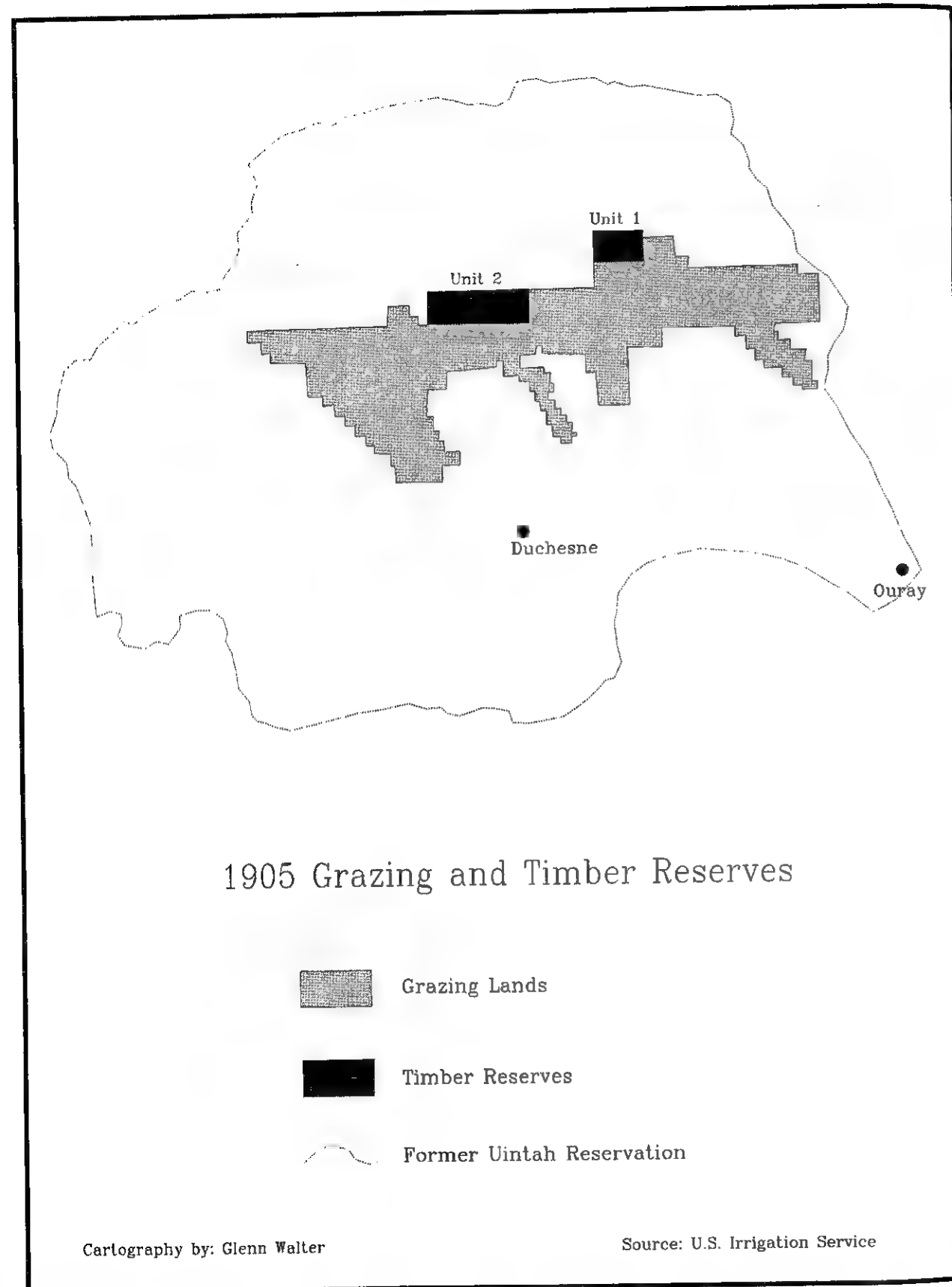
After the passage of the 1905 act, Uintah and Ouray agent Chalmer G. Hall began to locate a tribal grazing reserve, a timber reserve, and a workable boundary between the northern reservation border and the Uinta National Forest. Locating the grazing reserve in the Uintah Reservation was laborious and Hall reported "difficulties in locating this body of land for grazing purposes." Hall declared that the reason for this difficulty was "being restricted on one hand to excluding agricultural land, and on the other hand by the Forestry interests, so that it becomes necessary to take in every available piece of grazing ground in order to obtain the necessary 250,000 acres" that Congress mandated in the Joint Resolution of 1902.¹¹⁷ Eventually Hall was able to fabricate a tribal grazing reserve extending across the northern section of the Uintah Reservation that was fifty-four miles long and eighteen miles in width and consisted of approximately 250,000 acres (See Map 11).¹¹⁸

Locating tribal timber lands within the grazing reserve was difficult. Agent Hall finally located two timber reserves in May, 1905. He reported that "The two districts in which it is stated proposed reservations of timber are to be made contain the only developed timber in any quantities which will be available for Indian uses."¹¹⁹ The Department of the Interior supported Hall's decisions and "On July 11, 1905, the Department set aside and reserved two tracts of land within the Uintah and Ouray Indian Reservation, Utah, as tribal forest reserves" (See Map 11). The forest lands surrounding the sawmill on the Uinta River were included in Timber Reserve No. 1 (9,600 acres); the northwestern timber lands encompassing Dry Gulch

¹¹⁷Captain C. G. Hall to Commissioner of Indian Affairs, May 23, 1905, Letters Received by the Office of Indian Affairs, 1881-1907, RG 75, NA.

¹¹⁸George A. Gutches, "General Report, Care and Protection of Timber on the Uintah Indian Reservation, Wasatch and Uintah Counties, Utah," pp. 1, 3, April, 1910, 35039-10-339, Uintah and Ouray, Central Classified Files, RG 75, NA.

¹¹⁹Captain Hall to Commissioner of Indian Affairs, May 23, 1905, Letters Received by the Office of Indian Affairs, 1881-1907, RG 75, NA.



became Timber Reserve No. 2 (17,280 acres).¹²⁰ The two timber reserves consisted of 26,880 acres which reduced the tribal grazing reserve to 218,000 acres.¹²¹

Because Hall received assistance from the United States Forest Service, establishing the boundary between the reservation and forest service lands was easier than locating the grazing and timber reserves. In June, 1905, Secretary of Agriculture James Wilson ordered his department to begin communicating with Captain Hall so that both agencies could determine boundaries "which were deemed advisable by the Agricultural Department to add to the Uintah Forest Reserve."¹²² The Department of Agriculture and the Department of the Interior reached a boundary agreement enabling the President to order the land transfer from the reservation to the Uinta Forest Reserve created on February 22, 1897. President Theodore Roosevelt issued a proclamation severing one million acres of tribal timber lands and adding them to the Uinta Forest on July 14, 1905. In his executive order, Roosevelt proclaimed "Whereas, it is considered necessary for the public good that certain lands in the Uintah Indian Reservation be set apart and reserved as an addition to the Uintah Forest Reserve."¹²³

Roosevelt's 1905 executive order severed one million acres of high mountain mixed conifer forests from tribal control. The President's order followed Congress's decision to place most of the tribe's conifer forests under the jurisdiction of the United States Forest Service. Despite the reduction of tribal control over the land, the 1905 legislation stated that the Utes were to receive timber revenues that these lands produced until June 30, 1920. As was expected, this arrangement was not satisfactory because the United States Forest Service issued free use permits to settlers which generated no timber receipts for the tribe; and when the Forest Service completed a timber sale the volume was small.¹²⁴

¹²⁰C. F. Hauke to the Forester, July 3, 1910, 35039-10-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA. Timber Reserve No. 1 included "Sections 5, 6, 7, 8, 17 and 18, T. 2 N., R. 2 W., and Sections 1, 2, 3, 10, 11, 12, 13, 14 and 15, T. 2 N., R. 3 W." Timber Reserve No. 2 included "Sections 4, 5, 6, 7, 8, 9, 16, 17 and 18, T. 1 N., R. 4 W., and Sections 1 to 18 inclusive, T. 1 N., R. 5 W."

¹²¹George Gutches, "General Report, Care and Protection of Timber on the Uintah Indian Reservation, Wasatch and Uintah Counties, Utah," p. 1, April, 1910, 35039-10-339, Uintah and Ouray, Central Classified Files, RG 75, NA.

¹²²O. F. Larrabee to Commissioner of the General Land Office, June 12, 1905, Letters Received by the Office of Indian Affairs, 1881-1907, RG 75, NA.

¹²³34 Stat. 3117, July 14, 1905. The President issued additional proclamations adjusting the boundary between the National Forest and the reservation on January 16, 1906 (34 Stat. 3, 3186), on May 29, 1906 (34 Stat. 3207), and on October 6, 1906 (34 Stat. 3240).

¹²⁴J. P. Kinney, *Indian Forest and Range: A History of the Administration and Conservation of the Redman's Heritage* (Washington, D. C.: Forestry Enterprises, 1950), p. 222.

Indian Service Chief Supervisor E. P. Holcombe and Inspector McLaughlin conducted an investigation of the Uintah and Ouray Reservation in 1912 and examined the tribe's timber arrangement with the Forest Service. Both men claimed that the tribesmen had free grazing rights in the national forest. Holcombe and McLaughlin did not believe that there was "sufficient compensation to the Tribe for permitting free ingress and egress to the National Forest over reserved Indian pastures by the stock of permittees of the Forest Service."¹²⁵

Their solution to these ongoing timber land problems was to restore the former reservation conifer tracts back to the tribe. Holcombe and McLaughlin concluded, "If the grazing lands that have been set aside for the Indians are insufficient for their needs, and it is necessary for them to make use of any part of their former reservation that is now a part of the National Forest," that the United States should "restore it to them."¹²⁶

The Ute tribe's ill-fated arrangement ended June 30, 1920, freeing the Forest Service from providing the tribe with timber receipts. At the conclusion of the fifteen year agreement, Assistant Commissioner of Indian Affairs Edgar Meritt described the Uintah timber arrangement as a bad deal. Meritt believed that the government's handling of the tribe's forests provided a prelude to a lawsuit. Assistant Commissioner Meritt declared "In the case of the Uintah Forest Reserve, it is my information that practically no timber has been sold, and that practically no income has been derived from that forest reserve turned over to the Forest Service." Meritt proclaimed that "the Uintah Indians will likely have a large claim against the Government."¹²⁷

Meritt correctly predicted the future as Congress appropriated a forest claim settlement ten years later. On February 13, 1931, Congress authorized a \$1,217,221.25 payment to the Uintah band for the loss of their forest lands. Payment was based on the price of \$1.25 per acre. The 1931 compensation did not include the tribe's loss of timber revenue.¹²⁸

The decision to allot the Uintah and Ouray Reservation reduced the tribe's timber resources. The reduction of the reservation's commercial forests decreased the tribe's ability to utilize large timber tracts for future tribal employment and tribal timber income. Land allotment opened the reservation to homesteading, reducing the irrigable lands available to the tribe, but Roosevelt's 1905 executive order destroyed any opportunity that the tribe had to

¹²⁵Confidential Conditions on Uinta Indian Reservation, Utah, Report of E. P. Holcombe, Chief Supervisor, and James McLaughlin, Inspector, September 24, 1912, James McLaughlin Papers, Roll 4, Frame 637, Assumption Abbey Archives, Richardton, North Dakota.

¹²⁶*Ibid.*

¹²⁷U. S. Cong., House, Indians of the United States, Hearings Before the Committee on Indian Affairs, House of Representatives, Vol. 1 (Washington, D. C.: Government Printing Office, 1919), p. 1181.

¹²⁸Kinney, Indian Forest and Range, p. 222.

expand the existing reservation logging operation. The two timber reserves composed of primarily conifers and aspen, the scattered stands of pine, pinyon and juniper on the grazing reserve, and the riparian cottonwood stands were the only forest lands that remained for tribal use in the future.

3.6 Conclusion

The Ute's forests underwent tremendous change during the second half of the nineteenth century. Following the creation of the Uintah Reservation in 1861, the tribesmen did not demonstrate any interest in the extensive use of their forests. That changed by 1900 as more tribesmen were using wood products manufactured at the agency sawmill. The Utes were also using the waste "slabs" that were discarded at the agency sawmill for building purposes.¹²⁹ In addition, a small number of Utes had found employment as cord wood cutters providing the agency, government school, and the military with cord wood often cut from the pinyon-juniper stands.

Not only had the Utes increased their use of the reservation forest, but the timbered lands themselves had changed. The limited agency logging operations that began in 1865 had expanded by 1900 to a small continuous operation that depended on tribal timber. As the logging increased there was a reduction in the available harvestable timber near the agency, forcing loggers to travel greater distances to cut trees.

This increasing utilization of the forests, coupled with the 1905 reduction in tribal timber lands, mandated the implementation of forestry conservation practices to insure that trees would be available for both agency and tribal use. Instead of implementing forestry practices, Uintah agents continued to log without making any preparations for the future.

¹²⁹James McLaughlin to Secretary of the Interior, March 14, 1901, James McLaughlin Papers, Roll 24, Frame 471, Assumption Abbey Archives, Richardton, North Dakota.

Chapter 4

The Beginning of a Forestry Program, 1905-1945

4.1 Introduction

The Ute tribe lost control over large tracts of timber at the turn of the century when President Theodore Roosevelt transferred one million acres of tribal lands to the Department of Agriculture, United States Forest Service. That act rendered the remaining tribal commercial conifer forests too small to support local sawmills. Almost simultaneously, in 1905 the United States opened the Uintah and Ouray Reservation to homesteading, increasing the reservation's population and decreasing the tribe's pinyon-juniper woodlands. Collectively, these actions reduced tribal forests at the very time when tribal and non-tribal populations needed increasingly more posts and poles, wood for irrigation structures, and cord wood.

The absence of large timber stands prohibited the reservation from advertising contract timber sales. Instead, the tribe either provided free wood for tribal domestic consumption or sold small timber volumes by permit. A result of this limited forestry activity was that during these lean years the Uintah and Ouray Reservation forestry staff consisted solely of forestry guards. Even without a professional forester, the Indian Service and the tribe developed cutting regulations and inaugurated a permit cutting program. The absence of a professional forester forced the reservation staff to conduct only minimal custodial forestry activities on the Uintah and Ouray Reservation: they provided fire protection and controlled mountain bark beetle by relying on cooperative ventures with outside agencies. Cooperation became the foundation for the reservation's conservation program throughout the first half of the twentieth century.

Tribal forestry employment opportunities decreased during the first four decades of the twentieth century as the tribe's forest lands decreased. On the other hand, the tribesmen assumed greater responsibilities in making forestry decisions. During these years, the tribe established permit policies, enacted logging regulations, and implemented conservation practices.

4.2 Reservation Post and Pole and Cord Wood Logging

The slow growth rates of the Uintah and Ouray forests, the low timber volume, and the selective logging illustrated the need for implementing forestry practices to conserve limited tribal timber for future uses. This was especially true with the pinyon-juniper that were rapidly being cut for poles, posts, and fuel after 1905. The pinyon-juniper consumption increased after the Uintah reservation lands were opened to outside settlement and this cutting demonstrated early the need to conserve tribal woodlands because the wood supply was quickly eliminated. Superintendent Chalmers G. Hall wrote in 1908 that "wood in the vicinity of the Agency and School has become depleted to such an extent that it will be impossible to procure the wood from the Indians grazing land at the prices heretofore authorized." To replenish the reservation

wood supplies, Hall asked the Commissioner of Indian Affairs to obtain permission for the agency to obtain 225 cords of wood from the Uintah National Forest.¹

Hall's wood shortage notice revealed the importance of establishing and enforcing reservation post, pole, and fuel cutting regulations to conserve the tribe's woodland resources. The need to draft post, pole, and fuel wood harvesting regulations became critical after the reservation was opened for homesteading. Both tribesmen and non-tribal settlers needed wood products to improve their homesteads, cutting from the limited volume of timber found on the reservation at the turn of the century.

The Uintah Reservation allotment legislation forced the tribe to sell the unallotted surplus lands to homesteaders. These new settlers demanded wood products, straining the remaining tribal timber resources. Indian Inspector James McLaughlin correctly predicted that the scarcity of trees would create a wood shortage to the tribal allottees. The newly arrived homesteaders were affected, too, by the scarcity of trees in the Uinta Basin. Some future settlers had the foresight to attempt to solve the timber shortage before taking homesteads on the reservation. In early August, 1904, several prospective settlers petitioned the Secretary of the Interior, proclaiming "that the demand for lumber for domestic purposes will be greatly in excess of what can be supplied through the present channels, owing to the great distance of the reservation from railroad transportation." To ensure their own timber needs be met, the petitioners asked permission to construct a sawmill on the reservation prior to its opening.² The Department of the Interior denied this request, forcing all homesteaders to wait until after the reservation was opened to settlement before cutting any timber.

Once the homesteaders claimed farms on the ceded lands, the scarcity of trees compelled homesteaders to steal tribal timber. Uintah and Ouray Superintendent Chalmers G. Hall was unable to stop this timber trespass because he relied on inexperienced tribal police to enforce timber trespass regulations, "with the result that the best protection for the timber is not had." To correct the problem, Hall urged the Commissioner of Indian Affairs to assign the control of reservation forestry resources to the Department of Agriculture, United States Forest Service, because it was "impossible to keep white men from entering upon these reserves and cutting timber."³

Hall also argued that the Forest Service should provide guidance in tree selection for cutting. The agent added that Forest control of reservation timber resources would make it "so

¹C. G. Hall to Commissioner of Indian Affairs, September 23, 1907, 79562-07-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

²John R. Browning et al. to Secretary of the Interior, August 30, 1904, Letters Received by the Office of Indian Affairs, 1881-1907, RG 75, NA.

³C. G. Hall to Commissioner of Indian Affairs, January 6, 1906, Letters Received by the Office of Indian Affairs, 1881-1907, RG 75, NA.

that when timber was needed for Agency purposes," the timber would be available. Hall recommended that settlers wanting to cut timber should make application "through the Forestry Ranger having jurisdiction in the locality for the cutting of the required amount of lumber, and the Ranger could then mark the trees and require such rules relative to the cutting as would be for the best interests of conserving the timber lands."⁴

Hall did not want to turn the reservation timber resources over to the Forest Service; he wanted the Department of Agriculture's professional foresters to handle "the timber in a proper manner." As for the tribal allottees, Hall believed that the Utes should also obtain permission to cut cedar posts for their own use or to haul dead and down timber for domestic purposes. If done this way, Hall believed that the tribesmen would "be able to obtain necessary lumber for a number of years at as reasonable a cost as is possible, in order that they may be given every opportunity to progress industrially."⁵

Despite the agent's concern for timber trespass, Hall received no assistance to prevent it. As the settlers claimed ceded lands, they quickly discovered that the ceded and non-ceded reservation lands possessed minimal timber from which to obtain poles, posts, and fuel. On the other hand, the tribal grazing reserve held "a considerable quantity of cedar and pine trees, none of which is of any practical use except for fencing and fuel." The recent settlers demanded wood products and claimed that since Congress opened the reservation to homesteading, Congress also planned that the homesteaders would have access to resources necessary to build their homes. Their argument found support in Congress. United States Senate Committee on Public Lands agreed with the settlers claiming, "The cedar and pine trees are very essential to the use of these settlers . . . for fencing and fuel." The cedar and pine trees were found on remote, arid lands and "do not serve the purpose of protecting or conserving the water supply, nor are they of any particular benefit to the lands upon which they grow."⁶

The problem was that no law existed authorizing settlers to cut posts and fuel wood on the Uintah and Ouray Reservation. To correct that problem, the Senate Committee on Public Lands proposed legislation to permit tribal cutting on the Uintah and Ouray grazing reserve for the purpose of securing wood products for homesteaders. Commissioner of Indian Affairs Francis Leupp supported the legislation, but he wanted the law to authorize the tribesmen to cut, to haul and to sell fence posts and cord wood from the tribal grazing lands according to regulations approved by the Secretary of the Interior.⁷

⁴*Ibid.*

⁵*Ibid.*

⁶U. S. Cong., Senate, Authorizing Certain Indians to Sell Timber for Posts and Fuel, S. Rept. No. 823, 59th Cong., 1st sess., 1906, p. 1, Serial 4904.

⁷*Ibid.*, p. 2.

As a result, Congress passed legislation in 1906 permitting the Ute tribesmen to log their grazing reserve for the purpose of cutting and selling cedar and pine for fence posts. The legislation was part of the 1906 Indian Appropriation Act and authorized the Secretary of the Interior to grant the tribesmen permission "To cut and sell cedar and pine timber for posts or fuel from the tracts reserved for grazing."⁸

Agent Hall drafted regulations for office approval to govern tribal grazing reserve post and fuel logging. He said that "It is believed it would be an unwise policy to give a general permission to the Indians to cut and sell posts." Instead, he wanted to issue a single permit in the name of a single tribesmen along with the name of a single white purchaser. Each white settler had to make application at the agency for wood, listing the number of posts wanted and the amount of fuel requested. The agent would issue the permit in the Ute's name and include a description of the cutting locale. The permit only covered dead and down trees.⁹

Without close scrutiny, Hall predicted that "it would be but a short time until the supply of posts on the grazing land would become so scarce that these materials would be almost unobtainable and extremely expensive."¹⁰ Hall hoped that his permit system would enable the tribesmen "to cut all the posts needed and which can properly be spared without injury and destroying the cedar growth." He also commented that settlers should take their posts on public lands and request tribal timber only as last resource.¹¹

The Office of Indian Affairs approved Hall's recommendations¹² and wrote cutting regulations, but despite these efforts, timber trespass continued. To stop this illegal activity, Hall ordered every spare agency employee to serve as a forest ranger; his makeshift police force included two tribal police and the agency butcher. His efforts were hamstrung when the United States Attorney refused to prosecute timber trespass because the first trial resulted in an acquittal: "the jury was largely composed of settlers." As a result of selective justice, Hall reported that the "settlers are daily stealing cedar posts and these posts are becoming more and more scarce."¹³

⁸34 Stat. 325, June 21, 1906.

⁹C. G. Hall to Commissioner of Indian Affairs, December 4, 1906, Letters Received by the Office of Indian Affairs, 1881-1907, RG 75, NA.

¹⁰Ibid.

¹¹Ibid.

¹²Thomas Ryan to Commissioner of Indian Affairs, January 19, 1907, 4556-06-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

¹³C. G. Hall to Commissioner of Indian Affairs, May 14, 1907, 4556-06-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

The agent reported that pinyon and juniper fencing materials were crucial to the tribesmen's farming success. Posts were essential to mark the allotments and fences were essential to farm the land, and without any posts, the allottees would face hardships. Hall predicted that crucial fencing material would be gone, if this cutting continued, because "The supply of posts is not limitless as some people have tried to make believe and even now are becoming scarce in available regions." To protect the woodlands, Hall suggested that troops from Fort Duchesne should be ordered to cedar post protection duty since the settlers claim "First come first served," whether or not they have a right to the posts.¹⁴

Settlers, on the other hand, considered Hall's logging regulations too restrictive, especially the section requiring Utes to cut the posts. As a result, homesteaders wrote Utah Senator George Sutherland, Chair of the United States Senate Committee on Public Lands, asking him to investigate trespass on Indian lands and to examine Uintah and Ouray Reservation post and pole logging regulations.

Sutherland was a good friend to the settlers, having sponsored the 1906 cedar and pine cutting legislation. The senator wrote Secretary of the Interior James R. Garfield informing him that the 1906 law was intended to make cedar available to the settlers, but Hall's decision to allow only tribal loggers to cut the trees denied settlers their right to the timber. The senator complained "that the question of policy has been determined by Congress and the Indian Agent should only be concerned in fairly carrying it out." Sutherland added that the settlers requested the legislation because "there was substantially no other supply of cedar trees to which they could resort to procure fencing materials." He claimed that Hall's actions denied the settlers trees and asked the Indian Service to reconsider their decision.¹⁵

Acting Commissioner of Indian Affairs C. F. Larabee received Sutherland's letter and Larabee reported to the acting Secretary of the Interior that if the settlers could not obtain timber, it was because the tribesmen were unwilling to cut cedar. Following that line of reasoning, Larabee heeded Senator Sutherland's request and drafted a memo modifying the Uintah and Ouray post and pole logging regulations. By relying on the Dead and Down Act of 1889, Larabee adjusted the logging rules, thus permitting the reservation superintendent to conclude a contract on behalf of all the tribesmen. The new contract permitted settlers to cut dead, fallen, or standing timber for posts. The acting Commissioner of Indian Affairs added that no settler could cut any posts until he obtained the agent's permission; post prices were based on local markets, and all cutting was under the agent's supervision.¹⁶ Reservation post prices were set at three cents per post and later raised to five cents based on prices set by United States

¹⁴Ibid.

¹⁵George Sutherland to James R. Garfield, June 28, 1907, 80740-07-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

¹⁶C. F. Larabee (Memorandum) to Acting Secretary of the Interior, July 1, 1907, 80740-07-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

Forest Service. The price increase went into effect in 1908. Agent Hall did not want to set the price any higher, but he believed that the price should reflect fair market value in order to sustain the incentive to cut poles from the tribal grazing reserve instead of the forest reserve.¹⁷

Despite these changes, the Indian Service further amended the post and pole logging regulations in 1908. The changes provided more liberal cutting, thereby authorizing settlers to cut green posts for domestic consumption, but not for resale. The Indian Service wanted "to conserve as far as possible the timber for the future needs of the Indians."¹⁸

Non-tribal grazing reserve cutting diminished as the settlers obtained an adequate supply of posts and poles. On the other hand, the demand for firewood continued and settlers continued to take firewood from tribal lands, free of charge, hauling cord wood from the entire reservation to burn. Superintendent Albert Kneale reported in 1921, "It has long been customary for White settlers to help themselves to dead and down wood [juniper and pinyon] of this nature from this [grazing] reserve for fuel purposes." Kneale added that this was the first time he was able to prevent trespass, but in doing so, was "depriving these White settlers, practically ninety per cent or more of them, from securing fuel for this winter's use, and are possibly working an unnecessary hardship upon them."¹⁹

To prevent a fuel shortage, Kneale recommended that his office issue permits to settlers to haul dead and down wood from the grazing reserve for either fifty cents a "two-horse load" or seventy-five cents "for a four-horse [sic] load" providing the wood was used only for domestic purposes. The reservation forest guard would supervise all cutting to insure compliance.²⁰ When Kneale began charging settlers for tribal wood, the non-tribesmen complained that they had to pay 50 cents for a load of cedar and pine or risk paying a \$25 fine.²¹ The settlers claimed this practice was unfair; they argued that when they purchased

¹⁷C. G. Hall to Commissioner of Indian Affairs, April 24, 1908, 15699-08-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

¹⁸C. F. Larabee to Daniel Larson, April 24, 1908, 14134-08-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

¹⁹Albert Kneale to Commissioner of Indian Affairs, September 19, 1921, 77226-21-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

²⁰*Ibid.*

²¹William O'Neil to Senator Reed Smoot, November 22, 1921, 77226-21-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

Indian allotments and heirship lands, the land title conveyed to the settlers free cutting privileges on tribal land. Of course, this was not true.²²

The post and fuel cutting conflict escalated and Superintendent Fred A. Gross simply ceased issuing permits to whites. Gross's action only aggravated the situation as the settlers faced a real fuel shortage, and to obtain wood, they simply stole more tribal trees. Seeking a solution to the problem, Gross's successor, Superintendent Henry M. Tidwell, discussed the problem with the agency forest guards, stockmen, and tribesmen. Eventually, the Utes agreed to re-issue permits to the settlers for five cords of dead wood, only for domestic purposes, at a rate of \$1 per cord.²³

The settlers opposed this new permit arrangement, which was intended to eliminate timber trespass, but the tribesmen supported the new permit system. Likewise, Uintah and Ouray Reservation forest guard Walter Daniels defended the tribe's action. He observed that "three-fourths of the Dry wood" found on the grazing reserve has been taken from the grazing reserve since 1905. Daniels believed that the tribesmen would have no wood in five years unless measures were taken to stop the trespassing. The forest guard recommended that even more "Rigid laws should be made and enforced, and a certain specified fine should be placed on any man caught stealing wood on the Indian Reserve."²⁴

Despite loud complaints from their neighbors, the Uintah and Ouray tribal leaders broke a two decade tradition. Instead of watching whites commit timber depredations, the tribe implemented a tribal cord wood permit system to monitor the reservation logging. Their decision was based on the Act of June 25, 1910, which "authorized the Secretary of the Interior to dispose of the mature living and dead and down timber on unallotted lands of any reservation, the proceeds from sales to be used for the benefit of the Indians of the reservation." Subsequent regulations provided additional administrative procedures for the reservation superintendents to follow, which Tidwell and the tribe had implemented in 1926.²⁵

The post, pole, and cord wood logging activities illustrated the importance of the reservation commercial woodlands to the local basin residents in the first three decades of the twentieth century. The opening of tribal lands to outside settlement increased the demands by

²²J. P. May to Don B. Colton and Reed Smoot, January 18, 1926, 77226-21-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

²³H. M. Tidwell to the Commissioner of Indian Affairs, November 12, 1926, 77226-21-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

²⁴Walter Daniels to H. M. Tidwell, February 7, 1927, 77226-21-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

²⁵Charles H. Burke to Senator Reed Smoot, November 30, 1921, 77226-21-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

outsiders to use tribal wood resources, especially the woodlands. In addition to the increased cutting of the woodlands, the reservation administration also initiated greater efforts to log the commercial forests by cutting conifers for building purposes.

4.3 The Reservation Sawmill Operation

The Uintah and Ouray Reservation logging activities extended beyond the posts, pole, and fuel wood logging. Larger dimension lumber was also needed for agency use, tribal consumption, and building irrigation structures. Because of the limited commercial timber volume and the constant government and tribal demand for wood products, stumpage was not exported from the reservation the first decades of the twentieth century. To save money and to provide technical training for the tribesmen, the government constructed a sawmill on the Uintah River in Tribal Timber Reserve Number 1, sixteen miles northwest of the agency, in Section 9 T2N R2W, in 1901.

The demand for tribal timber to build reservation facilities encouraged unregulated logging and inefficient sawmill operations. A local contractor, William Robinson, cut the logs at \$8 per thousand board feet for the mill. The reservation superintendent did not supervise Robinson's cutting practices and permitted him to log on tribal lands "without any bond, restrictions, regulations or supervision. He got the logs wherever and in whatever manner he wished."²⁶ As a result, Robinson left dead merchantable trees, cut stumps as high as three feet from the ground, gathered no brush, and made no plans for future growth.²⁷

The superintendent was equally negligent with the sawmill by giving the Indian Irrigation Service free use of the sawmill "to saw the lumber required for the Indian ditches, without any assurance that it would be returned in as good condition as when received by him."²⁸ For example, the agency mill cut 533,751 board feet in 1909 for the Irrigation Service and only 139,700 board feet for the agency.²⁹ The Irrigation Service also poorly logged tribal lands leaving unpiled slash and debris and wasting sawlogs.³⁰

At the conclusion of the Department of Agriculture and Department of the Interior's cooperative forestry agreement in the spring of 1910, the Indian Service sent District Two

²⁶George Gutes, "General Report, Care and Protection of Timber on the Uintah Indian Reservation, Wasatch and Uintah Counties, Utah," April, 1910, p. 7, 35039-10-339, Uintah and Ouray, Central Classified Files, RG 75, NA.

²⁷*Ibid.*, pp. 5-8.

²⁸*Ibid.*, p. 7.

²⁹*Ibid.*, p. 6.

³⁰*Ibid.*, p. 8.

Forester George Gutes to the reservation. Gutes was to report on the condition of the Uintah and Ouray forests. The forester criticized the agent for not having any logging regulations; and he recommended that "In the future no logging should be permitted on Indian lands without proper regulation and supervision."³¹ Gutes also recommended that no further logging be permitted at the mill's current location because the mill had been on the Uinta River for five years and the yellow pine was cut.³²

In addition, Gutes described the reservation timber resources, and this information was essential to the development of future logging practices. In Timber Reserve Number 1 (See Map 12), Gutes observed that "All the merchantable timber that should be cut from the reserve, has been removed." He added, that "There was formerly a good stand of Yellow Pine . . . but all has been removed except that which is absolutely necessary for the proper reproducing of the forest." The forest surrounding the mill now consisted of lodgepole (70 percent), poplar (20 percent), and fir (10 percent).³³

In Timber Reserve Number 2 (See Map 12), Gutes found yellow pine, lodgepole pine, and grassland. The scattered yellow pine stands were infested by pine bark beetles and were reproducing slowly. Lodgepole pine had invaded the burn and was thriving. Gutes also observed settlers hauling good lodgepole pine house logs from this reserve and he urged the superintendent to charge the whites for taking the lodgepole pine at least one-half cent a linear foot."³⁴

The Tribal Grazing Reserve (See Map 12) contained both commercial timber and commercial woodlands. On this 54 mile long and 18 mile wide reserve, Gutes located 1400 acres of yellow pine in the northeast edge of the reserve containing 4,700,000 board feet. Housebuilding lodgepole pine covered 3000 acres on the western side of the reserve. Juniper spread over 60,000 acres which provided posts and cord wood. Gutes estimated that juniper lands held "3,000,000 posts and 120,000 cords of wood."³⁵

Uintah and Ouray Supervisor Charles Davis assumed superintendent duties after Gutes investigated the reservation timber. Davis also agreed that the sawmill should be moved, having cut three to four million board feet at that location over the past five years. The last logs cost \$10 per thousand to mill because of the difficulty involved in hauling logs over rough terrain.

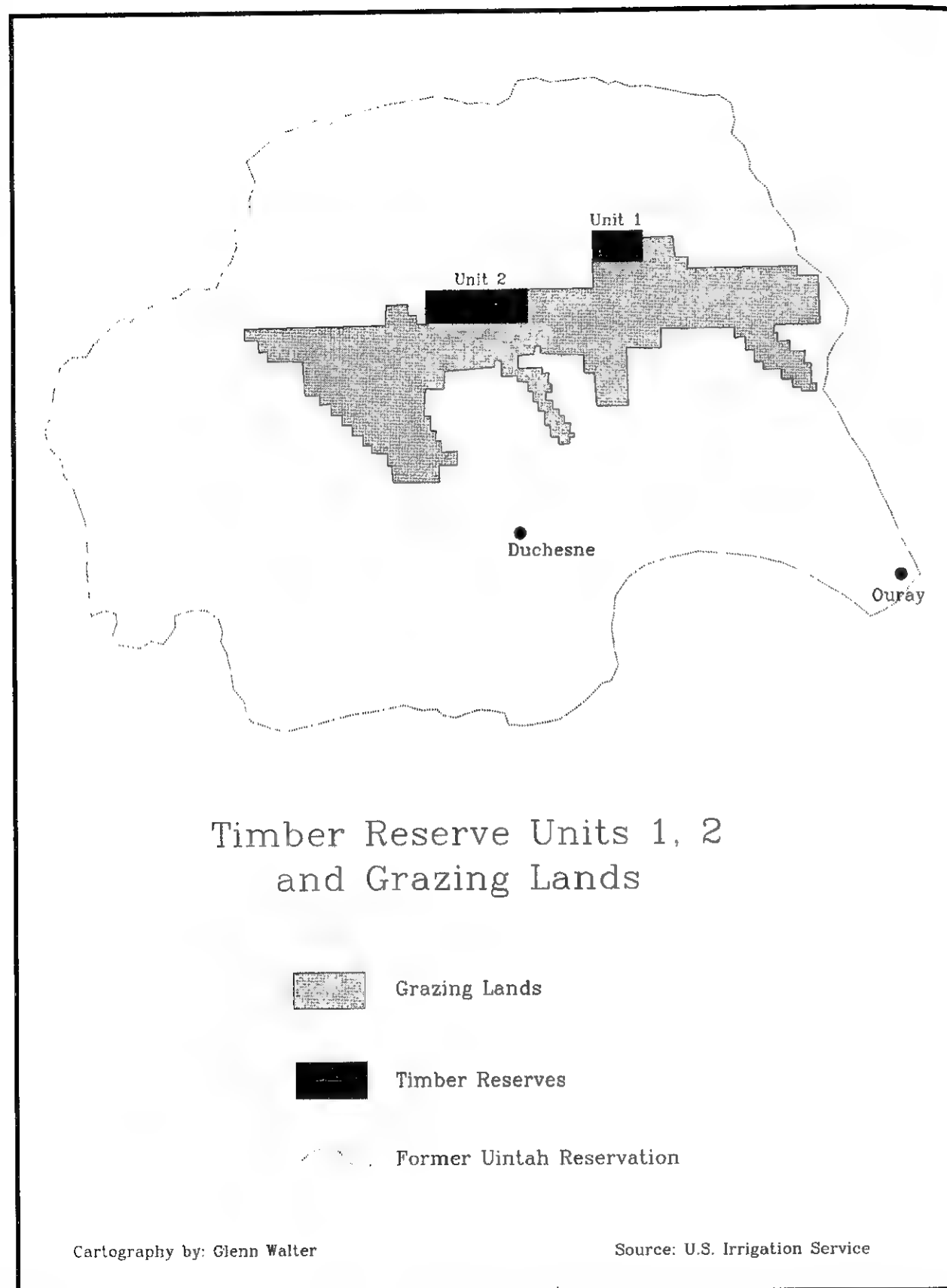
³¹*Ibid.*, p. 9.

³²*Ibid.*, pp. 5-9.

³³*Ibid.*, p. 5. Timber Reserve 1 included "Sections 13, 14, 15, 10, 11, 12, 1, 2, and 3, Township 2 N., Range 3 W., and Sections 5, 6, 7, 8, 17, and 18, Township 2 N., R. 2 W."

³⁴*Ibid.*, pp. 9-10.

³⁵*Ibid.*, p. 14.



Without an agency forester, Davis enlisted the assistance of Ashley National Forest Ranger Charles DeMoisey to select a new logging and milling site. DeMoisey and Davis selected a new location at Dry Gulch in the grazing reserve two miles from the timber reserve and near the Ashley National Forest.³⁶

Davis noted that the military had logged in the same vicinity of Dry Gulch years before "but further than that it is yet virgin forest of good quality."³⁷ He estimated that between three to five million board feet of yellow pine surrounded the mill site and most saw logs could be taken from Timber Reserve Number 1. The site was also near Ashley National Forest where the tribesmen possessed timber claims until 1920. Davis defended the tribe's right to National Forest Timber, stating, "As the Indians have a right to this timber for several years to come [therefore] the site was chosen somewhat with this in view."³⁸

The Indian Irrigation Service moved the mill in January, 1912, because they immediately required lumber to build reservation irrigation structures.³⁹ After relocating the mill, the Ashley National Forest disapproved of Davis's decision to move the mill near national forest because another mill was operating on the national forest near Dry Gulch.⁴⁰ In addition, Ashley National Forest did not believe that the tribe did not have an "immediate use of the Forest Service timber since they have plenty on their own land."⁴¹ The Forest Service eventually agreed to reserve 500,000 board feet from Ashley National Forest for the Uintah and Ouray Reservation use.⁴² Then, the Forest Service blazed a line in the timber to segregate

³⁶Charles Davis to Commissioner of Indian Affairs, December 15, 1911, 11048-11-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA. The new sawmill location was in Sec. 27, T. 2 N., R. 3 W.

³⁷*Ibid.*

³⁸*Ibid.*

³⁹Charles Davis to Commissioner of Indian Affairs, January 29, 1912, Uintah and Ouray, Central Classified Files, 1907-1939, 11048-11-339, RG 75, NA.

⁴⁰M. M. Ayes to Secretary of the Interior, February 19, 1912, 11048-11-399, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁴¹H. R. Hodson, memorandum, May 20, 1912, 11048-11-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁴²Forester to Commissioner of Indian Affairs, June 1, 1912, 11048-11-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

tribal reserved timber on the national forest from the trees being cut by the outside contractor on the national forest.⁴³

The reservation sawmill began operating at the new Dry Gulch location in late 1912, cutting timber for the Indian irrigation project (See Photographic Essay 2, page 205). Few lumber outlets existed because the local wood market was weak, and as a result, the reservation administration did not try to create a timber market.⁴⁴ Instead of expanding tribal lumber sales, Superintendent Davis "planned to train the Indians to run the mill and to use exclusively an Indian crew all the time the mill is in operation."⁴⁵ Despite Davis's ambitious plans, little logging and milling for either the agency or the tribesmen occurred during the next year, though the tribesmen demanded all types of wood products.⁴⁶

The Irrigation Service continued to use the tribal mill while tribal lumber needs remained neglected. This lack of available lumber for tribal consumption disturbed the Indian Service in light of the dismal state of the reservation's living conditions. To correct that imbalance, Indian Service officials wanted reservation timber manufactured into products that would improve the tribesmen's standard of living. For example, there was a serious reservation housing shortage. This situation provided the Indian Service a moral claim that there was critical need for native use of the sawmill.⁴⁷ Indian Inspector Jewell D. Martin declared, "The operation of that mill is FUNDAMENTAL in the making of substantial progress at Uintah, for little can be permanently done with those Utes till they are comfortably housed on their land."⁴⁸

Prior to Inspector Martin's cheerless report, Superintendent William R. Rosenkrans negotiated a logging contract with Alva M. Hardinger of Roosevelt, Utah, to provide saw logs

⁴³H. G. Green to Commissioner of Indian Affairs, June 1, 1912, 11048-11-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA; W. B. Greeley to District Forester, June 12, 1912, 11048-11-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁴⁴Inspection, December 7, 1912, William Peterson, Uintah and Ouray, 971-13-339, Central Classified Files, 1907-1939, RG 75, NA.

⁴⁵H. R. Hodson, Memorandum, May 20, 1912, 11048-11-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁴⁶Chas. L. Davis, Supervisor of Farming, Inspection Report, April 30, 1913, 70854-13-150, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁴⁷J. D. Martin to Cato Sells, October 25, 1914, 119526-14-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁴⁸Jewell D. Martin to Cato Sells, October 25, 1914, 119526-14-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA. Emphasis not added.

for agency and tribal use. The Indian Service approved Hardinger's contract on March 14, 1914. According to the contract terms, Hardinger was to cut and saw 280,200 board feet for \$11.37 a thousand board feet and to sell the manufactured products to the tribesmen for \$13.43 a thousand board feet.⁴⁹ In negotiating this contract, Rosenkrans was following "a policy of having timber sawn at the Agency mill under contract at so much per thousand feet."⁵⁰

Albert Kneale replaced Rosenkrans as superintendent and continued this policy by renewing Hardinger's contract on January 11, 1915. Kneale was more aggressive than his predecessor and included in the contract forestry regulations making Hardinger responsible for sparks, fire suppression, logging specific diameter of trees, and piling slash.⁵¹ The Indian Service used a Ute reimbursable fund to pay the Utes' share of the finished lumber that Hardinger was producing. The Indian Service claimed "it is believed proper that the expense of operating the mill be charged against tribal funds, which will be reimbursed when the lumber is paid for by the individual Indians."⁵² Under Kneale's forceful supervision, the sawmill cut 770,644 board feet in 1915.⁵³

The Indian Service pushed Kneale to improve reservation housing because 134 tribesmen were living either in tents or other temporary structures while 15,500,000 board feet was standing in the tribal forest. Commissioner of Indian Affairs Cato Sells informed Kneale that "The Office expects you to devise plans whereby many of these Indians shall be induced to bring logs to the sawmill and obtain lumber with which to build sanitary and comfortable homes."⁵⁴

⁴⁹William R. Rosenkrans to Commissioner of Indian Affairs, December 19, 1914, 137108-14-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA; William R. Rosenkrans to Commissioner of Indian Affairs, December 19, 1914, 137108-14-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA; E. B. Meritt to William R. Rosenkrans, January 10, 1915, 137108-14-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁵⁰Justification, July 22, 1915, 137108-14-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁵¹Contract, 137108-14-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁵²Justification, April 24, 1915, 137108-14-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA. The account was Interest on Confederated Bands of Utes, 4% Fund, Last year, Misc'l Rec., Class 3,--Proceeds of Labor, Uintah.

⁵³Superintendent Kneale to Commissioner of Indian Affairs, December 10, 1915, 137108-14-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁵⁴Commissioner of Indian Affairs to Albert Kneale, February 2, 1916, 11428-16-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

Kneale planned to cut 430,000 board feet in 1916 to obtain lumber for tribal housing. To acquire that stumpage, loggers would be required to log rough terrain at Dry Gulch. To fulfill that goal, Kneale specified that lodgepole pine (30,000 board feet) would be cut. This was the first time that lodgepole pine was included in the reservation logging program due to the fact that the available yellow pine was diminishing after having been logged for decades.⁵⁵

Again, Hardinger received the 1916 logging and milling contract on November 23, 1915 from Superintendent Kneale. The contract required him to cut 400,000 board feet of yellow pine and 30,000 board feet of lodgepole pine.⁵⁶ The Indian Service delayed authorizing the 1916 Hardinger contract, making it impossible for him to complete the contract. In addition, 1916 was a wet year, therefore prohibiting logging until June. To compound matters, the war created a labor shortage and Hardinger was unable to hire help. As a result, only enough lumber for six houses was sawed that year.⁵⁷

The dismal 1916 logging season convinced Kneale that he had to move quickly to complete the 1917 contract. The superintendent approved the next contract on June 20, 1916; it required Hardinger to cut 450,000 board feet of yellow pine and 50,000 board feet of lodgepole pine. The Office of Indian Affairs twice refused to approve this contract, claiming that the logging costs were excessive.⁵⁸

Kneale, on the other hand, did not wait for Indian Service approval of the 1917 contract, but he ordered Hardinger to continue logging. Kneale believed that the contract would be approved and he incurred an unauthorized debt of \$1,892.98. He justified his actions, declaring "that there was a great demand of lumber to supply the needs of his Indians, his agency, and the irrigation project; that just as fast as lumber was sawn it was disposed." In addition, the agency "expected daily to receive notice that the Hardinger contract for cutting and hauling saw logs submitted under date of June 20, 1916, had been approved."⁵⁹

⁵⁵Albert Kneale to Commissioner of Indian Affairs, October 18, 1916, 113590-15-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁵⁶Justification, November 23, 1915, 113590-15-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁵⁷Albert Kneale to the Commissioner of Indian Affairs, June 20, 1916, 699620-16-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁵⁸Advertisement, June 1, 1916, 69620-16-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA; Albert Kneale to Commissioner of Indian Affairs, September 16, 1916, 69620-16-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁵⁹Authority, October 28, 1916, 69620-16-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

The Commissioner of Indian Affairs finally informed Kneale in the fall of 1916 that Hardinger's contract would not be approved. That forced the superintendent to quickly negotiate a new contract with McKane Milling and Lumber Company of Altonah, Utah, to manufacture 450,000 board feet of lumber with stumpage taken from the tribal timbered lands because the government mill was unable to manufacture sufficient quantities of lumber for tribal houses. The reason for that shortage was that the irrigation project alone consumed "a large amount of lumber every year" cut at the agency sawmill.⁶⁰ Despite Kneale's demand for wood products, the McKane Milling and Lumber Company refused to drop their bid price and declined to sign the contract.⁶¹

With logging operations ceased, the Indian Service sent an experienced lumberman named Francis X. Salzman to the Uintah and Ouray Reservation. Salzman was ordered to investigate and to take charge of the reservation logging operations because of the excessive rates being charged the tribesmen for wood products.⁶² Salzman arrived in January, 1917, and reported that the high logging costs were the result of poor equipment, an inexperienced crew, and Hardinger's lack of logging expertise. He added that the Utes were willing to work, but had no knowledge of timber work.⁶³

Salzman returned to the reservation in early May, 1917, and planned to conduct a more thorough investigation. He discovered that "Past logging operations have been carried on in a slipshod manner." Salzman reported that loggers left merchantable timber standing in the field and they never piled the brush. Salzman noted, "The supply of timber owned by the Indians being limited," and to salvage the timber at Dry Gulch, Salzman recommended "that [the timber] remaining on the reserve first mentioned, should be cut and hauled to the mill and sawed out for rough lumber only." He then recommended that Hardinger be fired and that the agency replace the Agency Sawyer and Engineer with a Forest Guard. Last of all, Salzman suggested that the mill be moved to Lake Fork in the northwest corner of the reservation where timber was more accessible.⁶⁴

⁶⁰Albert Kneale to Commissioner of Indian Affairs, September 27, 1916, 102866-16-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁶¹Robert McKane to Albert Kneale, December 9, 1916, 102866-16-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁶²E. B. Meritt to Albert Kneale, January 9, 1917, 3198-17-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁶³Francis X. Salzman to Commissioner of Indian Affairs, January 28, 1917, 9957-17-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁶⁴Francis X. Salzman to Commissioner of Indian Affairs, May 1, 1917, 9957-17-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

Salzman returned to the Uintah and Ouray Reservation in June, 1917, and modified his previous recommendations. He visited the Dry Gulch sawmill and discovered that at least two seasons of logging remained. He also reported that another 300,000 board feet, obtained under a free permit issued to the tribe based on the 1905 legislation, could be hauled to the mill from the National Forest. Salzman recommended several mechanical changes to improve the mill's efficiency, but said he doubted that the milling costs would ever drop below \$3 per thousand board feet. Since the Utes lacked milling expertise, he urged Kneale to employ four white operators to run the mill. The operation suffered another blow when the dam located above the sawmill and owned by the Cedarview Irrigation Company, broke in 1917 and carried most of the logs in the mill's yard down Dry Gulch.⁶⁵

Kneale attempted to comply with Salzman's recommendations. The superintendent eliminated the position of agency engineer and added the position of forestry guard, and by 1918, the agency employed two forest guards at an annual salary of \$900 and \$600 dollars per year.⁶⁶ Frank Taylor, Walter Daniels, and George Dickson were early Uintah and Ouray Reservation forest guards and their duties included supervising the sawmill operation, marking trees for cutting, and preventing timber trespass.⁶⁷

Implementing Salzman's suggestions for more efficient mill operation was more difficult. Kneale was unable to find new equipment. He reported in the fall of 1917 that the war had increased the cost of materials, making it difficult to purchase the necessary parts. The mill's boiler was in such poor condition that it operated at only fifty percent capacity. The war contributed to a labor shortage, forcing the Indian Office to authorize \$10,000 to employ tribesmen as irregular labor in logging, cutting, hauling, and manufacturing of lumber. As a result of these problems, reservation lumber production dropped below that of previous years.⁶⁸

To compound Kneale's sawmill problems, the reservation lumber demands continued to escalate. In particular, the irrigation project consumed lumber faster than the agency mill produced finished products. The irrigation system was being upgraded to bring 95,000 acres

⁶⁵Francis X. Salzman to Commissioner of Indian Affairs, June 22, 1917, 9957-17-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁶⁶Horace G. Wilson, Inspection, October 18, 1918, 86996-18-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁶⁷No exact date of their employ was given, but their names infrequently appear in the reservation records.

⁶⁸Albert Kneale to Commissioner of Indian Affairs, April 16, 1918, 137108-14-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA; Albert Kneale to commissioner of Indian Affairs, September 17, 1917, 13108-14-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

under cultivation, and wood was essential to remodeling the system.⁶⁹ Finally, a lumber emergency erupted in August, 1917, when the irrigation project had no lumber to replace the old "structures." Kneale observed that "It will be necessary to replace and enlarge fully fifty per cent of the structures in the main canals within the next twelve months and they must of necessity be replaced with wooden structures," because of the high transportation costs. Kneale would not accept any delays and concluded, "Lumber must be immediately available for a few days delay at such a time may easily mean the destruction and total loss of thousands of acres of crops and the pauperization of numerous families."⁷⁰

Since the agency sawmill did not produce enough lumber for the irrigation project, Kneale solicited lumber bids in August, 1917, from local mills and he received a wide range of unfavorable proposals. Kneale then asked two companies to consider logging on a share basis, hoping to obtain more favorable terms. The McKune Mill, Altonah, Utah, offered a seven-to-one share; the Draper Mill, Mountain Home, Utah, offered a four-to-one share and the latter "furthermore agree, if the one-fourth share due the Government be not sufficient to supply the demand, to sell to the Government all or any portion of their share at \$12.00 per thousand fob."⁷¹ As a result, Kneale proclaimed on September 17, 1917, that "an exigency existed" because the irrigation system had no lumber, and he authorized J. E. Draper to immediately cut lumber on the grazing reservation and requested office approval for his decision.⁷²

One year later, Kneale reported in August, 1918, that the irrigation project consumed nearly all of the government's share of the Draper logging contract. As a result, the superintendent was unable to build his proposed granaries and houses.⁷³ One reason for this shortage was that due to misfortune, the Draper mill was unable to provide 1,500,000 board feet to the reservation as stipulated by the contract; their mill burned, the water supply failed shutting down the boiler, and labor was unavailable. Last of all, J. E. Draper died in February, 1918, of influenza.⁷⁴

⁶⁹Albert H. Kneale, Indian Agent (Caldwell, Idaho: Caxton Printers, Ltd., 1950), pp. 294-297.

⁷⁰Albert Kneale to Commissioner of Indian Affairs, September 17, 1917, 19740-17-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA. Emphasis not added.

⁷¹Ibid.

⁷²Albert Kneale to Commissioner of Indian Affairs, February 27, 1918, 19740-17-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁷³Albert Kneale to Commissioner of Indian Affairs, August 27, 1918, 197490-17-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁷⁴Laram Bryce to Albert Kneale, May 29, 1919, 19740-17-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

In spite of these difficulties, Kneale extended the Draper contract in 1919 because the agency's lumber requirements were greater than before.⁷⁵ Besides the irrigation project, the agency mill was producing wood for reservation bridges and culverts. Improvements were made to the agency mill to meet the lumber shortage.⁷⁶ Now there were two mills on the reservation -- the government mill, sawing the last wood in Dry Gulch, and the Draper mill, sawing lumber at Lake Fork in the northwest end of the grazing reserve.⁷⁷ To improve the government mill's efficiency, inspector Horace G. Wilson authorized purchases to upgrade the plant including a new boiler, engine, slab conveyor, pulleys, planer, and logging carts.⁷⁸

Reservation logging slowed after 1921 as both available trees and agency demands declined. The sporadic cutting that continued after 1921 involved the logging of scattered stands in rough terrain. Superintendent Henry Tidwell reported in 1927 that the sawmill "furnishes sufficient lumber for Indian homes and other buildings, bridges, and culverts, flumes, etc. We have only second grade material which is not sufficient in quantities for commercial purposes and the production of the lumber as value of timber is considered of minor importance."⁷⁹ Tidwell described the sawmill as a liability because of the expense of hauling logs to Dry Gulch and the cost of moving the large stationary boiler to Lake Fork where 150,000 board feet were ready to be cut.⁸⁰ To eliminate these expenditures, the agency cut the standing timber near the sawmill and worked the logs into lumber. The mill was dismantled in 1928.⁸¹

⁷⁵Albert Kneale to the Commissioner of Indian Affairs, August 2, 1919, 19740-17-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁷⁶Horace G. Wilson, Inspection, October 18, 1918, 86996-18-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA; U. S. Cong., House, Indians of the United States. Investigation of the Field Service. Hearings by a Subcommittee of the Committee on Indian Affairs, Vol. 3 (Washington, D. C.: Government Printing Office, 1920), pp. 1134-1135.

⁷⁷W. I. Endicott to the Commissioner of Indian Affairs, November 24, 1920, 95768-20-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁷⁸Horace G. Wilson, Inspection, October 18, 1918, 86996-18-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁷⁹Uintah and Ouray, 1927, Superintendents' Annual Narrative and Statistical Reports from Field Jurisdictions of the Bureau of Indian Affairs, 1907-1938, M1011, Roll 158, RG 75, NA.

⁸⁰H. M. Tidwell to Commissioner of Indian Affairs, March 7, 1927, 54313-26-150, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁸¹Annual Forestry Report, 1931, p. 4, 8, 66687-31-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

During 1929 Senate hearings on the conditions of Indians living in the United States, the Ute tribesmen expressed their displeasure with the sawmill operation. They claimed, "The sawmill has been operated and maintained by the white people, operated by the white people, maintained and supported by the Indians." They argued that mill operation was costing them money because current operators "consume more time in the sawing of material," than producing lumber.⁸²

The sawmill became a moot issue. Shortly before the Senate hearings, the agency sawmill was dismantled in 1928; the Indian Service had no plans to re-assemble the plant as it was too large for the agency's sawing requirements. The last mill purchased had operated for three decades beginning in 1901, and played a critical role in changing the reservation. The intensive logging of a portion of the reservation's scattered conifer stands and the manufacture of this stumpage into wood building products transformed the reservation landscape; tribal homes dotted the basin floor and an extensive irrigation project delivered water to basin farmers.

The mill also contributed to the changing forest; in 1931, approximately 14,000,000 board feet were standing on the reservation's unallotted lands. Of these, lodgepole pine were more plentiful than any other commercial conifer. Yellow pine was next, followed by Douglas-fir.⁸³ The mill eventually outlived its usefulness as the costs of operating were greater than the value of the products received. Despite the loss of the sawmill, the ongoing reservation logging operations demonstrated the need for greater conservation measures.

4.4 Forest Conservation

The limited commercial forests on the Uintah and Ouray Reservation dictated a small agency forestry staff. That personnel restriction, coupled with the tribe's lack of interest in forestry issues, decreased the amount of forestry conservation work that was conducted in the tribal forests. The first conservation officer was a reservation forest guard hired after Francis Salzman recommended the creation of that position in 1917. A Junior Forester was added to the reservation staff in 1930, but in the absence of a long-term professional reservation forester, the reservation staff often requested technical assistance from the Indian Service District Forester. Without an adequate forestry staff, long range planning was often impossible and day to day forestry activities suffered.

Cooperation became the foundation of the reservation forestry conservation work. Reservation employees shared responsibilities with other agencies. Range riders watched for

⁸²U. S. Cong., Senate, Survey of Conditions of the Indian in the United States. Hearings before a Subcommittee of the Committee on Indian Affairs, 70th Cong., 2nd sess., Pursuant to S. Res. 79, Part 2, 1929 (Washington, D. C.: Government Printing Office, 1929), p. 811.

⁸³Annual Forestry Report, 1931, pp. 4, 8, 66687-31-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

fires and United States Forest Service employees aided the reservation staff in control of insect infestations and fire fighting.

Regardless of how the forest was used, the development of a reservation fire protection program had to be implemented no matter the level of the funding for forestry programs. Prior to 1905, the reservation staff did not have a forest fire protection plan, but merely hoped that no one started a fire and that any fire once begun could extinguish itself. By the early twentieth century, the Indian Service encouraged all reservations to develop fire protection programs. On the Uintah and Ouray Reservation, fire control was critical to the preservation of the scarce timber resources.

Historically, lightning started many fires in the Uinta Basin. The high elevation and arid climate encouraged fires. John Wesley Powell observed the aftermath of basin fires and he articulated the importance of fire suppression as early as 1879. Powell mistakenly blamed fire for limiting arid lands timber. Due to the low humidity in the arid lands, Powell claimed that Uinta Basin fires raged with greater intensity and with even greater frequency than on other lands. Powell wrote, "Utah gives about a fair average," demonstrating the need for fire protection. During one Green River Expedition, he observed "three [fires] in Utah, each of which has destroyed more timber than that taken by the people of the territory since its occupation."⁸⁴

As to the origin of these fires, Powell routinely and falsely blamed the tribesmen, claiming that they "systematically set fire to forests for the purpose of driving the game . . . [and Powell] attributed to a wanton desire on the part of the Indians to destroy that which is of value to the white man."⁸⁵ Contrary to Powell's beliefs, Uinta Basin tribesmen "manipulated" the landscape with fire both to enhance animal forage and habitat, and to enhance their success in the hunt.⁸⁶

Powell, like most conservationists of his day, mistakenly believed that forest fires created the scarcity of trees and that the tribesmen were responsible for setting fires. Neither view was true, but the fact remained that fires destroyed timber in the Uinta Basin. Sometimes these fires were large. For example, non-tribal "Settlers tell of a fire in 1881 that burned nearly all

⁸⁴John W. Powell, Report on the Lands of the Arid Region of the United States. With a More Detailed Account of the Lands of Utah, U. S. Geographical and Geological Survey of the Rocky Mountain Region (Washington, D. C.: Government Printing Office, 1879), p. 17.

⁸⁵*Ibid.*, pp. 17-18.

⁸⁶Catherine S. Fowler, "Subsistence," in Warren L. D'Azevedo, Handbook of North American Indians, Great Basin (Washington, D. C.: Smithsonian Institute, 1986), p. 95.

summer in the Uinta Mountains, beginning on the east end and burning west for more than 60 miles."⁸⁷

Generally, large forest fires like the 1881 blaze were the exception and not the rule in the Uinta Basin. Still, the reservation administration was concerned with forest fires. The fire potential increased as the reservation population grew, because more individuals were cutting trees to improve their homestead or allotment, thus creating more slash and debris on reservation lands. As a result, the first forestry conservation work on the Uintah and Ouray Reservation was slash disposal, a conservation activity that the superintendent could accomplish without additional funds. When George E. Young, a Vernal settler, requested "permission to cut 240 cords of fire wood from the Indian grazing land in the vicinity of Farm Creek," in 1909, Superintendent Hall supported the request. Hall wrote, "considerable quantity of dead timber which has accumulated in former years . . . It is very desirable to clean up this locality in the interest of economical forest administration." Hall charged Young fifty cents a cord for the dead and down wood, which was the same price that the Ashley National Forest Supervisor charged for dead and down wood cut in the national forest.⁸⁸ The local Forest Service administration supported Hall's decision because they feared that a reservation slash fire would spread north onto national forest lands.⁸⁹

The Department of the Interior and the Department of Agriculture entered into a short-lived cooperative agreement in 1908. This was a cost cutting measure where the latter provided the former with technical forestry advice through local forest reserve supervisors. The Indian Service took advantage of this arrangement and requested Forest Service assistance on the Uintah and Ouray Reservation, "as to what, if anything, could or should be done to preserve and increase the growth of this pine."⁹⁰

The United States Forest Service District Ranger at Ogden, Utah, received orders in 1909 to study the reservation forests and ordered the Ashley National Forest Supervisor to evaluate the agency's current forestry practices. The Ashley National Forest Supervisor criticized the reservation superintendent for permitting loggers to cut tribal timber without any regulations or instructions; for allowing loggers to leave scattered debris over cut-over lands, increasing the fire hazard; for never burning the slash, thereby increasing the fire danger to the remaining

⁸⁷Ralph R. Widner, editor, Forest and Forestry in the American States (National Association of State Foresters, 1968), p. 394.

⁸⁸C. G. Hall to Commissioner of Indian Affairs, June 1, 1909, 43730-09-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁸⁹E. E. Carter to Commissioner of Indian Affairs, September 24, 1909, 65979-09-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁹⁰F. H. Abbott to The Forester, September 2, 1909, 65979-09-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

forests; and for allowing loggers to cut only merchantable yellow pine. The Forest Service recommended that reservation administration begin to require loggers to pile and burn the brush, to employ Indian Service personnel to extinguish fires, and to initiate fall slash burning practices. The Ashley National Forest supervisor offered his assistance to the reservation Indian Service personnel in beginning this conservation work.⁹¹

To further complicate the conservation effort, the Ashley National Forest supervisor reported that a bark beetle infestation had begun in 1902 (T 1N, R 5W). The bark beetle had attacked large, scattered, mature western yellow pine, and by 1908 the beetles had infested between 65,000 to 70,000 board feet. The Forest Service wanted the Uintah and Ouray agency to end the insect infestation by either debarking or logging the infested trees. Whatever treatment method was decided, the work had to be completed by June first. The cost for debarking ranged from thirty cents to seventy-five cents per tree.⁹²

Since no local market existed at the time for timber, Superintendent Hall recommended debarking as the preferred treatment. He estimated that the Indian Service would need \$1,500 to treat 500,000 board feet to complete the work if he supervised the project and had assistance from the United States Forest Service.⁹³

This proposed beetle control project was never begun because the Indian Service and the United States Forest Service cooperative agreement was terminated. The Indian Service then created a Branch of Forestry in 1910 to develop reservation forestry practices and to handle reservation forestry projects. The Office of Indian Affairs informed the Uintah and Ouray superintendent that the Commissioner had decided "to send an expert timber man to your reservation to look over the existing conditions . . . before further damage can be done by the beetle."⁹⁴

That spring, the Indian Service Branch of Forestry sent District Forester George A. Gutches to the Uintah and Ouray Reservation with orders to examine local forestry conservation

⁹¹E. E. Carter to Commissioner of Indian Affairs, September 24, 1909, 65979-09-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁹²E. E. Carter to Commissioner of Indian Affairs, September 24, 1909, 65979-09-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA; E. E. Carter to Commissioner of Indian Affairs, November 24, 1909, 65979-09-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁹³C. G. Hall to Commissioner of Indian Affairs, December 21, 1909, 65979-09-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁹⁴F. H. Abbott to C. G. Hall, January 27, 1911, 65979-09-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

practices. Gutches prepared a negative report describing the forests as being poorly managed.⁹⁵ Gutches reported that loggers neither piled nor burned their debris which increased the fire danger. Fortunately, Gutches added that no fires occurred in the cut-over lands during the past ten years. The forester recommended that the agency develop improved logging regulations and force lumbermen to comply with these logging regulations to minimize fire danger.⁹⁶

Gutches also prepared a Uintah and Ouray fire protection plan "to give the Indian lands the best protection against fires and trespass."⁹⁷ The district forester recommended dividing the reservation forests and woodlands into three fire districts. Fire District Number One included the lands from Dry Gulch east toward the reservation boundary. Whiterocks was selected as the fire headquarters and Local Constable Claud Chandler, assisted by a tribal policeman, was appointed leader. Chandler was assigned to the agency mill during the fire season, from April 1 to October 1, and to patrol the cut-over lands. Fire District Number Two comprised the lands west of Dry Gulch extending to Rock Creek. Agency farmer Charles Elliott was placed in charge of this district and was assisted by a tribal policeman and John Yesto, an allottee who lived at Lake Forks. Fire District Number Three included the lands west of Rock Creek to the reservation boundary with headquarters at either Blind Canyon or Farm Creek. Superintendent of Livestock Henry R. Karnstedt was appointed Chief Fire Ranger, and he assumed fire protection duties, timber marking duties, and brush disposal supervision.⁹⁸ To assist in fire communication, Gutches recommended the construction of a telephone line between Karnstedt's headquarters and Elliott's headquarters.⁹⁹

Gutches refused to add a professional forester to the reservation staff because the tribal conifer commercial forests would not support a forester's salary. Gutches reported, "The amount of timber on the Indian lands will not permit the establishing of new offices on the reservation, for the salaries would soon exceed the value of the timber." As a result, he concluded that his forestry "plan is the cheapest and best under present conditions. However, the men in charge of the different districts have extra work to do, and their salaries should be raised and this raise paid from the fund Care and Protection of Indian Timber."¹⁰⁰

⁹⁵George A. Gutches to Commissioner of Indian Affairs, April 25, 1910, 35039-10-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁹⁶George A. Gutches, "General Report, Care and Protection of Timber on the Uintah Indian Reservation, Wasatch and Uintah Counties, Utah," p. 8, April, 1910, 35039-10-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁹⁷*Ibid.*, p. 16.

⁹⁸*Ibid.*, pp. 17-18.

⁹⁹*Ibid.*, p. 19.

¹⁰⁰*Ibid.*, p. 18.

Last of all, Gutches urged the reservation staff to begin eradicating the Rock Creek bark beetle infestation. He recommended that the superintendent sell the infested trees on the open market and require the successful bidder to follow explicit instructions to prevent spreading the infestation to non-infested trees. The forester added that any isolated infested trees that cannot be logged should be cut and burned at the site.¹⁰¹

The Uintah and Ouray administration attempted to implement Gutches's forestry conservation advice, but a shortage of personnel and funds prevented the staff from completing these recommendations. The local United States Forest Service personnel were aware that the reservation lacked forestry funds to combat the bark beetle infestation, and offered to assist the agency by conducting a joint eradication project. The reason for the Forest Service support was that administrators believed the reservation infestation threatened trees in the National Forest.¹⁰²

The reservation superintendent, after the Forest Service offered their assistance to the agency, initiated a beetle control program by offering a logging contract, because no funds existed to manually de-bark the trees.¹⁰³ An infested lumber logging contract was approved on May 22, 1913, with M. C. Wilson, Mountain Home, Utah, to remove 1,000,000 board feet of infested pine at a rate of \$1,500. The contract terminated on December 1, 1913.¹⁰⁴ Uintah and Ouray superintendent Albert Kneale reported in 1914, "The bug-killed timber in the infested district of our timber reserve was disposed of during the year in order to prevent waste. It was sold at a fair price."¹⁰⁵

The next bark beetle infestation was discovered in 1926. Again, the agency lacked funds to pay for an eradication project and Forest Service administrators volunteered to cooperate with reservation officials to suppress the infestation. Ashley National Forest Supervisor A. G. Nord reported the recent infestation on tribal grazing and timber reserves in late 1926, and offered

¹⁰¹*Ibid.*, pp. 9-10.

¹⁰²W. B. Greeley to District Forester, June 12, 1912, 11048-11-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

¹⁰³F. H. Abbott to Jewell D. Martin, July 18, 1912, 11048-11-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

¹⁰⁴Contract, Jewell D. Martin, M. C. Wilson, 11048-11-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

¹⁰⁵Uintah and Ouray, 1914, Superintendents' Annual Narrative and Statistical Reports from Field Jurisdictions of the Bureau of Indian Affairs, 1907-1938, M1011, Roll 158, RG 75, NA.

reservation Forest Guard Walter Daniels the assistance of the Forest Service to eliminate the bark beetle.¹⁰⁶

Even with Forest Service assistance, the lack of reservation forestry funds hindered the eradication work. Superintendent Tidwell pleaded to "save our living timber I have no savings from tribal funds which might be used for this purpose."¹⁰⁷ Finally, the Indian Service authorized Tidwell to take money from the "'Confederated Bands of Utes, 4% Fund, Uintah, 1927'" and "'Industrial Work and Care of Timber, 1927'" to pay for beetle control.¹⁰⁸

The lack of forest conservation funds limited insect control and eliminated any possibility of conducting a forest inventory. Even without forestry funds, the reservation staff developed fire fighting plans. Fortunately, fires were not widespread during the early years of the twentieth century. The scattered and isolated timber stands posed limited fire danger as long as the superintendent required loggers to pile and burn their slash. Constant cutting for either domestic use or ranching purposes also decreased the fire threat to the commercial conifer forests.¹⁰⁹

One small fire occurred west of Lake Fork on the timber reserve, burning nearly fifty acres on June 16, 1916.¹¹⁰ The next fire occurred ten years later when the reservation fire patrol reported a fire on Dry Mountain on September 20, 1926. Reservation fire fighters reached the blaze the following day either by horse or by foot and discovered the fire burning aspens in rough, inaccessible terrain. Winds blew the fire onto an adjoining slope and ignited sage and aspen. Sawmill Engineer Campbell Lister estimated that the blaze burned "an area four miles by two, and no [sic] over ten thousand feet of saw timber." Listed added, "this fire in my estimation did more good than harm as it burned the dead and down timber out of the way of stock so they can graze at will, and the Utes can ride after their cattle with out [sic] much

¹⁰⁶Henry Tidwell to Commissioner of Indian Affairs, January 26, 1927, 5256-27-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

¹⁰⁷Henry M. Tidwell to Commissioner of Indian Affairs, February 8, 1927, 5256-27-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

¹⁰⁸Assistant Commissioner of Indian Affairs E. B. Meritt to Henry M. Tidwell, February 16, 1927, 5256-22-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

¹⁰⁹Uintah and Ouray, 1914, Superintendents' Annual Narrative and Statistical Reports from Field Jurisdictions of the Bureau of Indian Affairs, 1907-1938, M1011, Roll 158, RG 75, NA.

¹¹⁰Albert Kneale to Commissioner of Indian Affairs, June 20, 1916, 69923-16-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

trouble." He concluded, "It is my opinion that some one started this fire for that very purpose."¹¹¹

The 1926 fire was the first major blaze on the reservation since the 1881 Vernal fire and coincided with the Indian Service's decision to implement a "Five Year Forest Protection Plan." The Commissioner of Indian Affairs requested superintendents to draft plans for their respective reservations. The difficulties that Uintah and Ouray fire fighters experienced in reaching the 1926 Dry Mountain fire, as well as the agency's lack of fire preparedness, convinced Tidwell of the importance of drafting a comprehensive fire protection plan. Tidwell prepared a "Five Year Forest Protection Plan," which he submitted to the Commissioner of Indian Affairs in May, 1927.¹¹²

Tidwell's 1927 plan represented a major departure from Gutches's 1910 fire protection plan. Instead of relying on fire watchers living in different regions of the reservation to report fires and to serve without pay, Tidwell requested \$33,543 in federal funds for fire fighting improvements. The superintendent planned to remodel the Rock Creek ranger cabin to be used as a fire watch station; to build fire roads to Rock Creek and Moon Lake; to install telephone lines from the old sawmill building to Dry Gulch; to purchase a caterpillar tractor and a truck; and to obtain fire fighting hand tools.¹¹³

The Indian Service's "Five Year Forest Protection Plan" suffered from lack of funds.¹¹⁴ Without funds to carry out the reservation fire protection blueprint, Tidwell reported two years after submitting his fire plan that "Very little has been done to carry out our program . . . funds have not been made available."¹¹⁵

Despite the absence of federal funding to improve the reservation fire protection, Tidwell made small improvements in the agency's fire fighting capabilities. He placed "fire fighting equipment . . . at the Rock Creek Ranger Station"¹¹⁶ to supplement the supply caches already

¹¹¹Campbell Lister to F. A. Gross, September 24, 1926, 46191-26-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

¹¹²Henry Tidwell to the Commissioner of Indian Affairs, May 20, 1927, 8316-29-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

¹¹³*Ibid.*

¹¹⁴Charles Rhoads to Henry Tidwell, April 12, 1930, 18832-30-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

¹¹⁵Henry M. Tidwell to Commissioner of Indian Affairs, February 12, 1929, 8316-29-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

¹¹⁶*Ibid.*

located at Fort Duchesne and the agency sawmill.¹¹⁷ Tidwell also situated five men on fire patrol during the fire season by redefining their work descriptions; three permanent range employees served as fire lookouts and two temporary range riders were also assigned to fire duty. These men watched the entire reservation's grazing and timber lands, reported all fires, and transported fire fighting equipment from the supply depots to the fire.¹¹⁸ The men also "furnish their own saddle horses or other means of transportation necessary to reach the fire."¹¹⁹

The Ashley National Forest provided the reservation with additional fire fighting improvements. The reservation fire fighting ability improved when the United States Forest Service constructed a crude trail that served as the Yellowstone Road through the northern, rugged section of the reservation. This Forest Service road enabled Forest Service personnel to reach isolated national forest lands. The reservation also benefited from this trail by providing reservation fire fighters greater access to tribal timber.¹²⁰

In 1930, Mountain States Telephone, United States Forest Service, and Indian Service telephone lines all traversed the reservation. Tidwell successfully utilized this extensive public and government telephone network to communicate fire locations between the various reservation fire fighters.¹²¹ The development of an inexpensive fire communication system was the last step in Tidwell's fire plan and he was proud of his accomplishments declaring, "I believe we have provided the maximum protection with facilities at hand and do not anticipate any great loss from this source."¹²²

Uintah and Ouray forest guard George Wilson approved of Tidwell's fire fighting changes. Wilson declared that "this equipment [is] sufficient for our present needs as these tools are well distributed and are placed at all accessible points in close proximity to our timber

¹¹⁷Henry Tidwell to Commissioner of Indian Affairs, April 3, 1930, 18832-30-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

¹¹⁸Henry M. Tidwell to Commissioner of Indian Affairs, February 12, 1929, 8316-29-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

¹¹⁹Henry Tidwell to Commissioner of Indian Affairs, April 3, 1930, 18832-30-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

¹²⁰Henry M. Tidwell to Commissioner of Indian Affairs, February 12, 1929, 8316-29-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

¹²¹Henry Tidwell to the Commissioner of Indian Affairs, April 25, 1930, 18832-30-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

¹²²Henry Tidwell to Commissioner of Indian Affairs, April 3, 1930, 18832-30-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

lands." Regarding the absence of roads, he noted, "Adequate [fire] protection cannot be given our timber lands without new roads and trails which are necessary to make it possible to reach the regions most susceptible [sic] to fires, and which can now be reached only with pack animals." Wilson concluded, "I do not believe additional fire fighting equipment would be any value until such time as roads and trails are completed for its transportation."¹²³

The reservation's conifer, pinyon-juniper, and grass-sagebrush habitats escaped fires nearly every fire season during the first three decades of the twentieth century. This provided a false sense of security. Even District Forester William Zeh intimated that the open range grass-sagebrush landscape did not pose a serious fire problem.¹²⁴ In fact, Zeh wrote in 1931 "that in ordinary years practically no fires ever occurred on this Reservation."¹²⁵

In 1931 many fires did burn, though. In the fall of 1931, Zeh wrote, "The experiences of past summer and other evidence on the ground seem to indicate that fires can and do occur." He added, "It is for such years that preparations must be made in order to fully protect the forage and timber resources of the Indians so as to make possible the greatest returns from their holdings." Zeh stressed the importance of fire protection to the reserve's grasslands, noting "Many of the fires in the past and probably in the future will be grass fires on the ranges. Some of these ranges support considerable browse. Other areas are covered with yellow pine or a thick stand of lodgepole and aspen."¹²⁶

Several reasons were given for the origin of the 1931 fires. One explanation was that the Utes started to burn creek bottoms, and these fires became accidental wild fires. One fire even threatened Whiterocks Boarding School.¹²⁷ Indian Service District Forester Richard Millin added another reason observing, "It is of interest to note that along the Uintah River, south of Whiterocks, where so many fires have occurred in the spring of the year, that there are now very few fires." Millin continued, "During the spring of this year [1939] there was only one fire. In years past there have been a large number. The Indians have been accused of setting them to provide them with an adequate supply of dry wood during the coming winter."

¹²³George Wilson to Commissioner of Indian Affairs, February 25, 1929, 8316-29-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

¹²⁴William A. Zeh to Commissioner of Indian Affairs, August 1, 1932, 38682-32-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

¹²⁵William A. Zeh and E. A. Johnson to Commissioner of Indian Affairs, November 4, 1931, 62174-31-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

¹²⁶Ibid.

¹²⁷Annual Forestry Report, 1931, 66687-31-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

Whether or not this is true is open to conjecture. However, at the present time it appears that this sort of thing has been reduced to a minimum."¹²⁸

After the fire season of 1931, Uintah and Ouray junior forester Charles Langer began to modify the reservation fire plan. Langer's position was created in 1930, much to Superintendent Tidwell's dismay. Tidwell opposed any increase in forestry positions claiming, "Our forestry activities are very meager indeed because of the fact that there is no merchantable timber on this reservation." He added that a junior forester position was created in 1930, and "We have about as much use for a Junor [sic] Forester as we have for the measles as we have no forest activities that require supervision and this employee knows little or nothing about range stock."¹²⁹

But Langer understood fires and possessed the ability to improve the reservation fire plan. Langer believed that the large number of 1931 summer fires occurred because of an inadequate reservation fire fighting plan. He wrote, "Heretofore, a definite fire organization has been lacking on this Reservation." Even though fires occurred with less frequency on the Uintah and Ouray Reservation than on other reservations, the agency still required an adequate fire fighting program distributed throughout the reservation at strategic points, and complete with the proper fire fighting tools.¹³⁰

Langer believed that revising the Uintah and Ouray Reservation fire protection plan was essential to prepare a fire fighting program. He began by building both a fire watching and a fire fighting organization that worked in cooperation with the Forest Service. Langer's first act was to organize the Cooperative Observers, individuals who had advantageous views of both national forests and tribal forests and access to telephones. Next, Langer employed "Cooperative Per Diem Guards [who] were recruited to fire fight based on their ability, availability, and reliability."¹³¹ Langer paid his guards forty-five cents an hour when they fought a fire alone and had to feed themselves, and forty cents an hour when they were in

¹²⁸Annual Forestry Report, 1939, p. 6, Phoenix Area Office, Forestry and Grazing Division, Central Classified Files, 1927-1952, 339.3, Annual Report, Uintah and Ouray, RG 75, NA, Pacific Southwest Region, Laguna Niguel, CA.

¹²⁹Uintah and Ouray, 1931, Superintendents' Annual Narrative and Statistical Reports from Field Jurisdictions of the Bureau of Indian Affairs, 1907-1938, M1011, roll 59, RG 75, NA.

¹³⁰Forestry, Annual report, 1931, 66687-31-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

¹³¹Forestry, Annual Report, 1932, pp. 1-4, 38737-32-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

charge of a fire fighting crew but ate at the fire fighting camp. Regardless of the fire duty, the guards furnished their own transportation.¹³²

An additional benefit was that, whenever possible, Langer appointed cooperative observers and per diem guards who already were employed by the United States Forest Service. By making that decision, Forester William Zeh observed that Langer's fire plan encouraged "a close spirit of cooperation . . . developed between these two departments in this region."¹³³ Indian Service Forester William Heritage favorably evaluated Langer's cooperative program even though the plan "does not give as quick detection as we have on our important forest units, but with the small fire hazard that exists seem to cover the situation quite well."¹³⁴

Langer continued to build a more efficient fire fighting program. In the spring of 1932, he employed a temporary forest guard and stationed the guard along the reservation's western timbered lands. The addition of two more employees increased the number of forest fire observers working on the reservation during the 1932 fire season to four.¹³⁵ Two years later, the junior forester proposed the placement of a permanent forest guard on the western timbered lands at Farm Creek.¹³⁶

The reservation administration was able to depend on Indian Emergency Conservation Work projects direct relief laborers for fire suppression during the 1930s. In 1934, to assist fire suppression the CCC workers built telephone lines on the reservation. One thousand lodgepole pine were cut for the telephone poles and 800 juniper stubs were used with the poles.¹³⁷ District forester Millin praised the Civilian Conservation Corps-Indian Division employees for providing "fire suppression activities [which] have been very much appreciated. Without their

¹³²William A. Zeh to Commissioner of Indian Affairs, August 1, 1932, 38682-32-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

¹³³*Ibid.*

¹³⁴William Heritage to Commissioner of Indian Affairs, November 14, 1932, 53482-32-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

¹³⁵Forestry, Annual Report, 1932, p. 3, 38737-32-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

¹³⁶Forestry, Annual Report, 1934, p. 3, 59328-34-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

¹³⁷*Ibid.*, pp. 18, 21-22.

help it would be necessary to have a fire organization which would involve considerable time and expense."¹³⁸

The emergency relief workers fought the largest number of fires during the dry summer of 1940 when fuel levels were high. In reviewing that summer, Millin declared, "If it had not been for the prompt action of the [CCC-ID] camps serious losses would have resulted." He added that "The Indian CCC camps have a record outside the reservation for their firefighting ability as they are listed by adjoining National Forest ranger districts for second call during emergency periods."¹³⁹ An additional benefit was that most of the enrollees were tribesmen, enabling the Utes to gain valuable fire fighting experience at the CCC-ID camps and to obtain a fine fire fighting record.¹⁴⁰

Common interest in suppressing forest fires molded a pragmatic and cooperative relationship between the Uintah and Ouray Reservation and the local Forest Service. That positive relationship created greater fire cooperation. The Ashley National Forest personnel provided a one-day course at the reservation CCC-ID camps instructing the enrollees on building "the modified one lick method of construction of fire line." After the course, the tribal CCC-ID enrollees "were able to construct 20 chains of fire line in 20 minutes."¹⁴¹

After eight years of informal cooperation, the Uintah and Ouray Reservation and the Wasatch National Forest signed a one year joint fire fighting cooperative agreement in 1940. Millin wrote, "The purpose of this agreement is to offer greater protection from fire on both the Reservation and the National Forest." To assist both agencies in fire fighting, all parties revealed tool cache locations, shared fire suppression action plans, and revealed personnel assignments during a fire emergency. The reservation gained the services of Forest Service

¹³⁸Annual Forestry Report, 1939, p. 7, Phoenix Area Office, Forestry and Grazing Division, Central Classified Files, 1927-1952, 339.3, Annual Report, Uintah and Ouray, RG 75, NA, Pacific Southwest Region, Laguna Niguel, CA.

¹³⁹Annual Forestry Report, 1940, p. 2, Phoenix Area Office, Forestry and Grazing Division, Central Classified Files, 1927-1952, 339.3, Annual Report, Uintah and Ouray, RG 75, NA, Pacific Southwest Region, Laguna Niguel, CA.

¹⁴⁰Annual Forestry Report, 1940, p. 2, Phoenix Area Office, Forestry and Grazing Division, Central Classified Files, 1927-1952, 339.3, Annual Report, Uintah and Ouray, RG 75, NA, Pacific Southwest Region, Laguna Niguel, CA.

¹⁴¹Annual Forestry Report, 1940, p. 2, Phoenix Area Office, Forestry and Grazing Division, Central Classified Files, 1927-1952, 339.3, Annual Report, Uintah and Ouray, RG 75, NA, Pacific Southwest Region, Laguna Niguel, CA.

trained cooperative observers and per diem guards and "protection to areas that were blind to the range guards."¹⁴²

The reservation administration signed additional cooperative agreements in 1941 with the Ashley National Forest, the Uinta National Forest, and the United States Grazing Service.¹⁴³ The following year the Uintah and Ouray Reservation participated as a cooperating agency in the Forest Fire Fighters Service of Utah, created by the Utah Office of Civil Defense in 1942.¹⁴⁴

The United States Department of Agriculture, the United States Department of the Interior, the State of Idaho, and the State of Utah signed a cooperative fire fighting compact on May 6, 1943. That agreement provided the foundation for the signing of the most important fire inter-agency agreement, concluded on April 27, 1945. The Uintah and Ouray Reservation, Ashley National Forest, Uintah Basin Soil Conservation District, Duchesne Grazing District Number 6, Vernal Office of the Bureau of Reclamation, Dinosaur National Monument, and the State of Utah signed a cooperative agreement. The signatory parties agreed "to coordinate the fire protection activities of all personnel and facilities of the above agencies in a united effort to protect public property from destruction by fire insofar as practicable." The cooperative agreement declared as policy local cooperative relationships with definite responsibility to suppress fire.¹⁴⁵

The 1943 fire cooperative agreement was an important step toward creating a strong, workable, regional fire suppression program. Cooperation was essential where the landscape was under different jurisdictions. Now the signatory parties depended on the Uintah and Ouray Reservation personnel for early fire detection. These individuals included reservation Range Guards, Forest Guards, cooperative observers, cooperative per-diem guards, and Indian Service irrigation ditch riders. More importantly, this cooperative arrangement worked and Forester Zeh observed, "Not a single lookout tower is used or manned in this Basin by any fire-control

¹⁴²Ibid.

¹⁴³Annual Forestry Report, 1941, p. 2, Phoenix Area Office, Forestry and Grazing Division, Central Classified Files, 1927-1952, 339.3, Annual Report, Uintah and Ouray, RG 75, NA, Pacific Southwest Region, Laguna Niguel, CA.

¹⁴⁴Annual Report, 1943, Forest and Range Fire Fighters Service, pp. 6, 7, Western History Collection, University of Utah, Salt Lake City; Annual Report 1977/78, Division of State Lands, p. 3, State of Utah; Annual Report, 1978/79, State of Utah; Division of State Lands and Forestry, p. 6.

¹⁴⁵Cooperative Fire Fighting Agreement, April 27, 1945, 3013-47-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

agency. Active Cooperative volunteer Observers supplement the regular operational forces to form a detection force adequate to the needs of the area concerned."¹⁴⁶

The local New Deal Indian Emergency Conservation Work (IEWC) projects assisted the reservation's fire fighting capabilities. Most Uintah and Ouray New Deal IEWC projects were developed to improve the reservation's livestock industry, but the projects also benefited the reservation's forests, by providing greater fire protection.¹⁴⁷ The Uintah and Ouray Civilian Conservation Corps-Indian Division (CCC-ID) projects that assisted forestry included construction of the John Starr to Rock Creek Truck Trail, Whiterocks to Rock Creek telephone line, Big Hill lookout tower (which was rarely manned), and Dry Gulch, Uinta River, Farm Creek, and Coyote Basin ranger stations.¹⁴⁸ On the other hand, Uintah and Ouray CCC-ID Project Number 182 was a beetle control project where CCC-ID workers cut, skidded, and burned insect infested timber (See Photographic Essay 3, page 208).¹⁴⁹

Fire-related activities were the core of Uintah and Ouray forestry activities during the first four decades of the twentieth century. The reservation administration developed a working fire organization to detect and to suppress forest and range fires. This was accomplished with few funds because the reservation administration assumed an aggressive inter-agency cooperative approach to both fire detection and fire fighting.

These ongoing conservation activities encouraged the Ute leadership to assume a greater interest and a greater role in reservation forest conservation during the first four decades of the twentieth century. Initially, the tribesmen were concerned only with timber trespass but as the value of reservation timber operations increased their interest in overseeing forestry activities also increased. The Indian Reorganization Act (IRA) of 1934 also expanded tribal participation in reservation forestry. First, the legislation encouraged "active and direct" tribal participation in forestry activities by implementing sustained yield forestry practices. Second, the IRA

¹⁴⁶Richard B. Millin to Commissioner of Indian Affairs, August 21, 1947, 30131-47-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

¹⁴⁷Annual Forestry Report, 1939, pp. 6, 7, Phoenix Area Office, Forestry and Grazing Division, Central Classified Files, 1927-1952, 339.3, Annual Report, Uintah and Ouray, RG 75, NA, Pacific Southwest Region, Laguna Niguel, CA.

¹⁴⁸Coulson C. Wright to Commissioner of Indian Affairs, February 18, 1938, Enclosing, CCC-ID Project Pictures, 1933-1937, Uintah and Ouray Indian Reservation, Utah, Records of the Uintah and Ouray Reservation, Fort Duchesne, Utah.

¹⁴⁹Ibid.

authorized the return of unsold "ceded" lands to respective tribes, which increased the acreage of tribal woodlands.¹⁵⁰

The Uintah and Ouray tribesmen accepted the provisions of the Indian Reorganization Act, approved a tribal constitution, ratified a tribal charter, and began enacting forest conservation ordinances and resolutions.¹⁵¹ The reorganized Uintah and Ouray Tribal Business Committee passed a conservation resolution which restricted cutting on reservation lands to "enrolled" tribal members only. Then, in 1937, the Tribal Business Committee established a timber policy mandating "that no permits for wood should be issued to whites; that enrolled members of the Uintah and Ouray Reservation should be allowed to get wood for their own use or timber for use on their allotments without permits."¹⁵²

The resolution only permitted individuals to gather wood for domestic purposes and provided "that enrolled members of the Uintah and Ouray Reservation should not be allowed to get wood for purposes of commercialization by sale to whites or others." This resolution did not prohibit tribesmen from selling wood, but suggested sale prohibitions. In addition, the resolution directed the Tribal Business Committee to review all tribal and community wood requests.¹⁵³

These tribal resolutions eliminated non-tribal access to reservation timber. On the other hand, tribesmen were restricted to cutting wood only for domestic purposes. Even though tribal wood consumption was small, it was difficult to regulate because tribesmen were not required to obtain permits. District Forester Richard Millin described the situation in 1939, observing, "Forest products used by the Indians are confined mostly to firewood, fence posts, building logs, and poles. There is no accurate method of estimating the amount used because they are not required to obtain permits." He added that "A small amount of fuel is sold to the whites."¹⁵⁴

¹⁵⁰For a study of the Indian Reservation Act, see Graham D. Taylor, The New Deal and American Indian Tribalism: The Administration of the Indian Reorganization Act, 1934-35 (Lincoln: University of Nebraska Press, 1980), especially Chapters 2 and 3.

¹⁵¹Knute Hill, Uintah and Ouray Superintendent, Planning Program, Uintah and Ouray Agency, March, 1944, (n.p.), Planning Document, Bureau of Indian Affairs, Fort Duchesne, Utah.

¹⁵²Coulson C. Wright to Whom It May Concern, October 8, 1937, Box 176933, Records of the Uintah and Ouray Reservation, Laguna Niguel Federal Records Center, Laguna Niguel, CA.

¹⁵³Ibid.

¹⁵⁴Annual Forestry Report, 1939, p. 8, Phoenix Area Office, Forestry and Grazing Division, Central Classified Files, 1927-1952, 339.3, Annual Report, Uintah and Ouray, RG 75, NA, Pacific Southwest Region, Laguna Niguel, CA.

The tribe's position was that tribesmen did not have to obtain cutting permits, making it difficult to determine the volume of wood removed from the reservation. That changed slightly in 1939 when the Indian Service instituted a voluntary permit system, attempting to monitor partial tribal wood consumption. Millin wrote in 1939, "The Indians have never been required to obtain permits to cut wood for their own use. During the year a system was set up whereby they could obtain these permits if they so desired." Millin added, "The result was that 37 permits were issued. It is believed that in a few years many more will obtain permits." When that occurred, Millin concluded, "Perhaps it will not be too long before an accurate figure will be available as to the amount of wood the Indians are using."¹⁵⁵

The Uintah and Ouray Reservation administration, with tribal support, slowly began to develop conservation practices. This was accomplished despite the loss of the Uintah and Ouray northern timber land, a circumstance responsible for reducing the tribe's commercial forests and diminishing the Indian Service's ability to perform conservation work due to the lack of funding. In spite of these difficulties, the reservation staff and the tribal leaders collectively began to implement forestry conservation practices based on cooperation with other agencies. As a result, a reservation fire suppression program was created, insect infestations were fought, and a permit logging system created.

4.5 Conclusion

The enactment of tribal resolutions to restrict logging illustrated the evolution of forestry practices that occurred on the Uintah and Ouray Reservation from 1905-1945. This voluntary permit system for tribesmen provided the first step toward further regulation of timber logging operations. "Management of the timber resources here on the Uintah and Ouray Reservation was extremely casual in the years before the Forest Inventory," of 1956. Uintah and Ouray Forester Roy H. Degler observed, "During this period timber was cut when it was needed in quantities demanded, and at the most convenient locations."¹⁵⁶

Tribal cutting permits were limited to \$500 or less worth of timber and that was an appropriate system to allow cutting of isolated reservation timber stands. As Degler concluded, "Harvesting of timber through the use of timber cutting permits (\$500 limit) was generally on the outside fringe of [later] contract sales . . . where low volumes and scattered nature of the blocks of timber made the use of permits feasible." The advent of permits and forest guards to select trees enabled the forestry personnel to develop "Transitional Selection" where dominant trees were individually selected for cutting.¹⁵⁷

¹⁵⁵Ibid., p. 6.

¹⁵⁶Roy H. Degler, "Forest Operating Plan on the Uintah and Ouray Indian Reservation, Utah," June 11, 1970, p. II-D-1, Branch of Forestry, Bureau of Indian Affairs, Phoenix Area Office.

¹⁵⁷Ibid.

The reservation forest landscape also changed as a result of "transitional selection" logging. The yellow pine volume declined steadily and by 1944, the reservation commercial forest species composition "was estimated at lodgepole pine 45%, Ponderosa Pine 40%, Douglas fir 5%, miscellaneous 5%."¹⁵⁸

District Forester Richard Millin estimated that the reservation's merchantable forests only covered 18,000 acres in 1939. He divided the commercial forests into two areas, one located north of John Starr Flat and the second at Lake Fork River. Millin described the bulk of the timber as being ponderosa pine with an estimated volume of 13,000,000 board feet. The ponderosa pine was "uneven in age ranging from over-mature to reproduction." Approximately 9,000 acres of cut-over lands were found south of John Starr Flat and "it has been subject to a concentrated attack by porcupines, consequently the reproduction has been serious [sic] damaged."¹⁵⁹

The reservation woodlands also changed during the first half of the twentieth century. In 1944, "The non-commercial forest was estimated at juniper 50%, pinion [sic] pine 30%, aspen-cottonwood 15%, [and] miscellaneous 5%." The reservation woodlands consisted of 132,751 acres with about 66 million board feet of timber. "About 18,180 acres of commercial timber support 13 million board feet, while 104,731 acres of non-commercial support about 52 million board feet. 8,800 acres of cut over commercial timber land have about 1 million board feet."¹⁶⁰ On the ceded lands, which returned to tribal ownership, "About 175,000 acres in the pinion juniper type," existed.¹⁶¹

At the end of the war, Uintah and Ouray tribal leadership prepared for the post-war economic changes which involved their forests. The reservation had a small forestry staff, a fire plan was in operation, and logging regulations were in effect. The Uintah and Ouray forestry program had gone through a difficult infancy and now approached the post-war years with a clearer understanding of tribal timber resources and how those resources should be integrated into the reservation's overall development programs. The absence of a comprehensive timber

¹⁵⁸Knute Hill, Uintah and Ouray Superintendent, Planning Program, Uintah and Ouray Agency, March, 1944, (n.p.), Planning Document, Bureau of Indian Affairs, Fort Duchesne, Utah. These are the figures reported by the superintendent Knute Hill and only total ninety-five percent. No other species were mentioned.

¹⁵⁹Annual Forestry Report, 1939, p. 1, Phoenix Area Office, Forestry and Grazing Division, Central Classified Files, 1927-1952, 339.3, Annual Report, Uintah and Ouray, RG 75, NA, Pacific Southwest Region, Laguna Niguel, CA.

¹⁶⁰Knute Hill, Uintah and Ouray Superintendent, Planning Program, Uintah and Ouray Agency, March, 1944, (n.p.), Planning Document, Bureau of Indian Affairs, Fort Duchesne, Utah.

¹⁶¹Ibid.

management plan did not diminish the forestry accomplishments of the first four decades of the twentieth century. Neither a timber management plan nor a timber cruise had ever been completed which hindered Uintah and Ouray comprehensive timber planning.

Chapter 5

Reservation Forestry, 1945-1970

5.1 Introduction

Beginning in 1940 and continuing for three decades, Uintah and Ouray Reservation forestry practices continued to evolve and build upon the advances made during the New Deal. The reservation administration improved logging regulations and practices. The first forest inventory and the first forest operating plans were completed during the post-war years, providing limited but important technical data essential for developing future harvesting plans. The agency's fire fighting capabilities continued to improve. Despite movement in most areas, forestry development projects remained a low priority because of both funding limitations and personnel restrictions.

During these years, the Uintah and Ouray leaders began to assume a greater role in managing the reservation's forest. For example, tribal business committee members included the reservation forests in their post-war reservation planning. To improve housing and to increase employment, Ute leaders developed a tribal lumber enterprise using reservation timber and Ute labor to build homes.

Timber harvesting was the core of any reservation forestry program, and from 1940 until 1957, Uintah and Ouray logging practices followed the trends established in previous decades. The pattern of small permit cuts continued. These cuts were often light and, due to the absence of logging roads, occurred on the periphery of the reservation's small, solid stands of old growth conifers. Beginning in 1960, the Uintah and Ouray leadership and the Bureau of Indian Affairs advertised several extensive contract timber sales, and for a brief period the tribe sold its old growth timber. Following these large contract sales, reservation logging returned to small permit cuts and the forestry staff was reduced, leaving forest technicians in charge of forestry operations.

5.2 Post-War Tribal Logging

Requests increased for tribal timber permits as the 1930s economic depression ended. In response to these demands for reservation wood, the tribal business committee approved several small timber permit sales under \$100. In line with this greater willingness to sell small volumes, the tribe even considered approving a 100,000 board feet sale in 1941. If the sale had been concluded, the Office of Indian Affairs would have collected an 8% administrative fee.¹

¹Joe A. Wagner to Richard B. Millin, January 14, 1941, Central Classified Files, 1927-1952, Phoenix Area Office, 339.5, Timber Sales, Uintah and Ouray, Regional Forester, 1940-44, RG 75, NA, Pacific Southwest Region, Laguna Niguel, CA.

Improved timber access enabled the tribe and the Office of Indian Affairs to consider timber sales. For example, in 1941, E. K. Brown opened a truck road in the western edge of the reservation, making 1,000,000 board feet of timber, mainly mixed yellow pine and Douglas-fir, available for logging.²

In addition, timber buyers asked to purchase Douglas-fir standing on the unsold Uintah and Ouray ceded lands. These were lands which the United States had authorized to be sold in the early twentieth century, but they had remained unsold.³ The ceded lands were south of the Duchesne River where numerous deep canyons cut the landscape. These tracts had limited timber value.⁴ Despite low ceded land timber volumes, several local lumbermen submitted applications to the tribe in 1940 to purchase green and dead ceded land timber. The individuals making the requests possessed small sawmills and milled timber for "home consumption." They sold green lumber for local building purposes. The dead and down timber was sawed into firewood.⁵

Demand for tribal timber whether on ceded or unceded land continued to escalate. By January, 1944, the reservation agency received applications for 120,000 board feet of posts from the ceded land valued at \$10 per thousand.⁶ Even the United States Forest Service requested Uintah and Ouray ceded land post sales, seeking posts to fence the sixteen mile boundary between the reservation and Uintah National Forest. The tribe, with the assistance of the agency

²Joe A. Wagner to Richard B. Millin, February 14, 1941, Central Classified Files, 1927-1952, Phoenix Area Office, 339.5, Timber Sales, Uintah and Ouray, Regional Forester, 1940-44, RG 75, NA, Pacific Southwest Region, Laguna Niguel, CA.

³Joe A. Wagner to Richard B. Millin, January 14, 1941, Central Classified Files, 1927-1952, Phoenix Area Office, 339.5, Timber Sales, Uintah and Ouray, Regional Forester, 1940-44, RG 75, NA, Pacific Southwest Region, Laguna Niguel, CA.

⁴Knute Hill, Uintah and Ouray Superintendent, Planning Program, Uintah and Ouray Agency, March, 1944, (n.p.), Planning Document, Bureau of Indian Affairs, Fort Duchesne, Utah.

⁵C. C. Wright to Commissioner of Indian Affairs, May 27, 1940, 37285-40-339, Uintah and Ouray, Central Classified Files, 1907-1939, RG 75, NA.

⁶Walter V. Woehlke to C. C. Wright, January 5, 1944; Walter V. Woehlke to Edythe B. Jermark, June 5, 1944, Central Classified Files, 1927-1952, Phoenix Area Office, 339.5, Timber Sales, Uintah and Ouray, Regional Forester, 1940-44, RG 75, NA, Pacific Southwest Region, Laguna Niguel, CA.

forestry staff, made the sale to the Forest Service, but stipulated that only dead post trees would be cut and all green lumber would remain standing.⁷

Even tribal cottonwood was in demand after the war. Since the reservation administration had never sold cottonwood before from an allotment, the agency had to determine the value of both green cottonwood and dry cottonwood. The Uintah and Ouray staff sought outside assistance and based the reservation cottonwood sale on the price established at Pyramid Lake Reservation, Nevada.⁸ The Soil and Moisture Conservation Organization (SMCO) group from Pyramid Lake fixed the price for dry cottonwood at seventy-five cents a cord and \$1 per cord for green cottonwood. SMCO recommended that cottonwood should not be used for lumber.⁹

In addition to the increase in local demand for Uintah and Ouray timber products, the United States Indian Service and the United States Grazing Service entered into an agreement on June 14, 1943, creating a Special Indian Grazing Unit east of the Green River in Hill Creek and Willow Creek drainages. Developed to assist Ute ranchers increase their grazing lands, the grazing unit encompassed 649,000 acres of which 6,000 acres was covered with timber; 80 percent was aspen and 20 percent was pinyon and juniper. The main wood products were house logs, fence posts, and firewood.¹⁰

Rising demands for tribal timber underscored the role timber would play in the post-World War II reservation economic development. As a result, the United States Indian Service ordered Uintah and Ouray Superintendent Knute Hill to develop a reservation post-war development program to prepare the reservation for the pending return to peace.¹¹

⁷E. B. Jermark to Commissioner of Indian Affairs, May 25, 1944, Central Classified Files, 1927-1952, Phoenix Area Office, 339.5, Timber Sales, Uintah and Ouray, Regional Forester, 1940-44, RG 75, NA, Pacific Southwest Region, Laguna Niguel, CA.

⁸C. C. Wright to Richard Millin, February 18, 1942, Central Classified Files, 1927-1952, Phoenix Area Office, 339.5, Timber Sales, Uintah and Ouray, Regional Forester, 1940-44, RG 75, NA, Pacific Southwest Region, Laguna Niguel, CA.

⁹Richard B. Millin to C. C. Wright, February 20, 1942, Central Classified Files, 1927-1952, Phoenix Area Office, 339.5, Timber Sales, Uintah and Ouray, Regional Forester, 1940-44, RG 75, NA, Pacific Southwest Region, Laguna Niguel, CA.

¹⁰Knute Hill, Uintah and Ouray Superintendent, Planning Program, Uintah and Ouray Agency, March, 1944, (n.p.), Planning Document, Bureau of Indian Affairs, Fort Duchesne, Utah.

¹¹Edward A. Poynton to Superintendent Knute Hill, January 20, 1944, Planning Document, Bureau of Indian Affairs, Fort Duchesne, Utah.

Hill completed his post-war reservation Planning Program in March, 1944. He described the tribal timber resource as existing in scattered stands. Despite the low volume, this lumber was marketable and could be sold locally to a logging company that possessed a portable sawmill capable of being transported from stand to stand. A local market also existed for the non-commercial species (notably cottonwood and lodgepole pine) which were cut into mine props, fence posts, poles, and firewood. Hill believed that this specialty lumber market provided the best avenue for selling low-grade tribal timber in the local market. He also reported that an insect infestation had affected a small portion of the merchantable stands. The superintendent recommended that the infested trees be cut by permit holders who would use the infested lumber. He added that cutting this timber would also protect the soil and moisture.¹²

The cost of administering forestry and grazing programs at Uintah and Ouray Reservation in 1944 was very low—one cent per acre. Hill noted, "This figure is considerably below the cost of similar work by other governmental agencies." The reason for this low cost was that only three tribal range guards did all the forestry work. In addition, the Uintah and Ouray Tribe paid the salaries for the range guards; one guard was employed for twelve months and the other two guards were employed for eight. Hill noted, "They are at the minimum for efficient work." To assist the agency's forestry program, Hill recommended that two trained technicians and three forestry guards be added to the agency staff.¹³

Superintendent Hill reported that "The real values [of the forest] will come in timber products useful for farm and ranch operation, firewood, and the returns from livestock operations." The Ute tribe supported that position and emphasized that the tribesmen should use tribal timber resources for domestic purposes, not for commercial sale. The United States Indian Service also supported that position, advocating in Circular No. 3514 that reservation timber should be used to sustain ranching operations. The only drawback to this approach was that it decreased the revenue potential of the forests. Even with limited use, the forest contributed to the reservation economy by providing employment to several tribal range guards.¹⁴

The Uintah and Ouray Reservation forestry program gradually changed after Hill prepared his 1944 reservation economic assessment. One reason for this shift in forestry management was that younger and more aggressive Utes were elected to the Uintah and Ouray

¹²Knute Hill, Uintah and Ouray Superintendent, Planning Program, Uintah and Ouray Agency, March, 1944, (n.p.), Planning Document, Bureau of Indian Affairs, Fort Duchesne, Utah.

¹³Ibid.

¹⁴Ibid.

Tribal Business Committee in 1946. These post-World War II tribal leaders wanted the tribe to take a more business like approach toward utilizing the tribe's resources.¹⁵

The new leadership encouraged the drafting of improved logging regulations, issuing tribal permits, and collecting tribal timber permit administrative fees. By October, 1946, the forestry staff reported, "Permits are issued for fence posts, also corral posts and logs for home construction. No charge is made nor fee collected when permits are issued to Indians to cut timber for their own use." However, "Charges are made and fees collected from white permittees also Indians when the timber is used on allotted land under lease or commercial sale." In addition, "All cutting us [sic] under the supervision of the Agency Forester."¹⁶

Greater regulations required more paperwork and the agency Range Manager, Paul A. Krause, who also handled forestry issues, observed, "Most of the Utes are now cutting poles, posts and fuel under timber permits received in advance from the Tribal Committee. More permits are written [sic] than are used and this makes wasted labor."¹⁷ On the other hand, under those permits that were filled, forest products were used by the Utes.¹⁸

As a part of this more aggressive approach toward tribal forestry, the Uintah and Ouray Tribal Business Committee passed a resolution on October 16, 1946, requesting that the Bureau of Indian Affairs begin charging administrative deductions. The tribal business committee wanted the overhead assessment based on 10 percent of all timber sold from tribal lands. Initially, few assessments were collected because the timber sales were very small.¹⁹ Another reason for the small collection of administrative charges was that the tribe was reluctant to sell timber. Range Supervisor Krause observed in 1949, "There have been no commercial timber sales from the Ute Tribal Timber Reserve. We could get many bidders for the native timber

¹⁵U. S. Cong., Senate, Tribal Funds of the Ute Tribe, Utah, Hearings before the Committee on Interior and Insular Affairs, 82nd Cong., 1st sess., on S. 1357 and H. R. 3795, April 25, and July 3, 1951 (Washington, D. C.: Government Printing Office, 1951), p. 76.

¹⁶Lyle F. Berger and H. L. Gardner to Commissioner of Indian Affairs, October 16, 1946, 44034-46-339, Uintah and Ouray, Central Classified Files, 1939-1954, RG 75, NA.

¹⁷Annual Forestry and Grazing Report, p. 2, 1949, 339.3 Annual Report, Uintah and Ouray, 1949, Central Classified Files, 1927-1952, Phoenix Area Office, Forestry and Grazing Division, RG 75, NA, Pacific Southwest Region, Laguna Niguel, CA.

¹⁸Annual Forestry and Grazing Report, p. 2, 1950, 339.3 Annual Report, Uintah and Ouray, 1949, Central Classified Files, 1927-1952, Phoenix Area Office, Forestry and Grazing Division, RG 75, NA, Pacific Southwest Region, Laguna Niguel, CA.

¹⁹Forrest R. Stone to Commissioner of Indian Affairs, December 26, 1946, 44034-46-339, Uintah and Ouray, Central Classified Files, 1939-1954, RG 75, NA.

if the tribe was disposed to make a sale. There is no official timber survey at this area which probably has at least 15,000M board feet of commercial yellow pine timber."²⁰

Instead of selling to outsiders, the tribal leadership wanted the timber to benefit Utes. As a result, the reservation leadership began a tribal mine prop enterprise, seeking to expand the tribesmen share of this local market. The tribal business committee authorized the sale of mine prop materials in June 1946 to Ute tribesmen, who in turn would sell the mine props on the open commercial market.²¹

This was a good decision because the local mine prop market was strong. Uintah and Ouray Forester Wayne O. Yargus reported in 1960, "The demand for mine timbers jumped during World War II and has continued intermittently ever since." The mine prop specialty market was important to the tribesmen because mine prop dimensions suited the reservation timber stock. Reservation Forester Wayne Yargus observed, "The minimum dimensions for mine prop material is 8" x 6" tip (1) which furnishes a market for some of the small material and cuts down waste."²²

Ute loggers began to cut timber for mine props in 1947. This involved the logging of lodgepole on the East Fork of Dark Canyon. Logs were hauled to the old CCC-ID camps and trucked to markets at Price and Provo, Utah.²³

The mine prop enterprise also served as a forest conservation project. Following the advice of the agency forestry staff, the tribal business committee authorized mine prop logging in areas where no fire trails existed. The loggers cut the mine props from specific locales making "30 foot clear cut fire lanes . . . as designated by Forestry." The forestry staff wanted

²⁰Annual Forestry and Grazing Report, p. 2, 1949, 339.3 Annual Report, Uintah and Ouray, 1949, Central Classified Files, 1927-1952, Phoenix Area Office, Forestry and Grazing Division, RG 75, NA, Pacific Southwest Archives, Laguna Niguel, CA.

²¹Fire Control Working Plan, Uintah and Ouray, p. 3, 30131-47-339, Uintah and Ouray, Central Classified Files, 1939-1954, RG 75, NA.

²²Wayne O. Yargus, "A Forest Management Plan for The Uintah and Ouray Indian Reservation, Utah," 1960, p. 28, Bureau of Indian Affairs, Division of Resources, Branch of Forestry, Phoenix Area Office.

²³Raymond H. Bitney to William Zeh, Memorandum, September 3, 1947, Uintah and Ouray Timber Sales, General, 339.5-04-1, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

to break the lodgepole pine stands into 40-acre to 80-acre tracts, providing for both greater fire control and logging access.²⁴

The Uintah and Ouray mine prop project ultimately failed because the loggers were unable to cut in the designated areas. As a result, "The mine prop projects have come to a stand still for lack of access roads to new stands of lodgepole presently inaccessible [sic] to trucks."²⁵ As a result, the 1949 Uintah and Ouray Annual Forestry Report stated, "The Tribal mine prop project was not too successful in 1949 only a few of the Indian contractors completed their cutting schedules."²⁶

Coinciding with mine prop logging, the Uintah and Ouray Irrigation Division purchased 100,000 board feet of tribal timber in 1946 for the reservation irrigation project because no yellow pine was available locally for sale. The irrigation crews used lumber to either build or repair reservation irrigation structures. The irrigation staff organized a logging project to cut above Bear Wallow. The timber was mature, forcing the loggers to employ heavy equipment to skid and then to haul the large logs fifty to sixty miles to the agency.²⁷

The yellow pine market did not improve. The agency irrigation staff reported in 1947 that the "Yellow Pine lumber [market] has been [bad making it] impossible to obtain [yellow pine] commercially and we have again been required to get out our own lumber, stumpage being purchased from the Tribe."²⁸ The Irrigation Division continued to purchase stumpage from the tribe, becoming one of the largest and one of the most consistent procurers of tribal lumber. The tribal leaders supported these sales, declaring that timber sales made to the Irrigation

²⁴Fire Control Working Plan, Uintah and Ouray, p. 3, 30131-47-339, Uintah and Ouray, Central Classified Files, 1939-1954, RG 75, NA.

²⁵Annual Forestry and Grazing Report, 1950, p. 2, 339.3 Annual Report, Uintah and Ouray, 1949, Central Classified Files, 1927-1952, Phoenix Area Office, Forestry and Grazing Division, RG 75, NA, Pacific Southwest Archives, Laguna Niguel, CA.

²⁶Annual Forestry and Grazing Report, 1949, p. 2, 339.3 Annual Report, Uintah and Ouray, 1949, Central Classified Files, 1927-1952, Phoenix Area Office, Forestry and Grazing Division, RG 75, NA, Pacific Southwest Archives, Laguna Niguel, CA.

²⁷Raymond H. Bitney to William Zeh, Memorandum, September 3, 1946, Uintah and Ouray Timber Sales, General, 339.5-04-1, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah; Annual Irrigation Report, p. 2, 44906-46-032, Uintah and Ouray, Central Classified Files, 1939-1954, RG 75, NA.

²⁸Annual Irrigation Report, p. 2, 44906-46-032, Uintah and Ouray, Central Classified Files, 1939-1954, RG 75, NA.

Division were tribal sales because Ute tribesmen benefited from the construction of irrigation projects (See Photographic Essay 4, page 221).²⁹

Increased interests in tribal forests encouraged tribal leaders to develop a logging policy after the war. This policy restricted sales to tribal members or a tribal project that benefited tribal members. The reason for this restrictive policy was to develop tribal timber resources for the benefit of tribal members, insuring the Utes would have adequate timber to develop tribal industries. Based on this policy, post-war tribal leaders pushed even more to develop a tribal sawmill enterprise.

5.3 The Tribal Sawmill

The assertive post-World War II Ute leaders planned a tribal sawmill enterprise. The tribal leadership had conducted discussions concerning a tribal sawmill operation and decided that the enterprise would have two benefits. First, the venture would provide material to build tribal homes, and second, the operation would employ tribal members in conservation work.³⁰ In addition, the proposed tribal sawmill would reduce the Uinta Basin timber shortage. Uintah and Ouray Superintendent Forrest Stone supported the tribal enterprise because of far-reaching benefits. He wrote, "The purpose of this installation in Utah will be for utilizing the Tribal timber for housing purposes for Indian veterans and other members of the Tribe, and releasing as much as possible into trade channels for housing needs in the Basin."³¹

Superintendent Stone assisted the tribal leadership in their search for a sawmill. He inquired in July, 1946, as to the availability of the Works Projects Administration sawmill at Heart Mountain, Wyoming.³² Tribal administrators wanted to place the mill at the junction of Yellowstone Creek and Lake Fork Creek because the location provided adequate mill water and two blocks of ponderosa pine that were accessible by road.³³

²⁹Paul L. Howard to Ralph M. Gelvin, April 28, 1952, Uintah and Ouray Timber Sales, General, 339.5-04-1, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

³⁰Hugh Harvey to District Forester William Zeh, Excerpt from October 9, 1946, Memorandum, 32861-46-339, Uintah and Ouray, Central Classified Files, 1939-1954, RG 75, NA.

³¹Forrest Stone to John S. Wood, July 24, 1946, 32861-46-339, Uintah and Ouray, Central Classified Files, 1939-1954, RG 75, NA.

³²Ibid.

³³Hugh Harvey to District Forester William Zeh, Excerpt from October 9, 1946 Memorandum, 32861-46-339, Uintah and Ouray, Central Classified Files, 1939-1954, RG 75, NA.

At the tribe's urging, the Bureau of Indian Affairs conducted a cursory examination of the forest resources at the proposed Yellowstone location and the Lake Fork location in 1947 to provide an estimate of the locales' stumpage. Collectively, both sites contained 15,373,810 board feet of western yellow pine and 18,120 board feet of Douglas-fir.³⁴ Without examining the remaining reservation commercial forests, the Bureau calculated that 33,500,000 board feet of yellow pine, 3,000,000 board feet of lodgepole pine, and 5,000,000 board feet of aspen (for pulp) were available for logging on the Uintah and Ouray Reservation.³⁵ This incomplete 1947 survey continued a long-standing pattern of forcing both the tribal leaders and the agency foresters to continue making forestry decisions without adequate technical data.

The Uintah and Ouray Business Committee required reliable reservation forestry data to plan a reservation sawmill enterprise; they had to know the extent of tribal forest resources to determine if such an enterprise would succeed. Chairman of the Uintah and Ouray Tribal Business Committee, Julius Murray, a supporter of the tribal sawmill, demanded a reservation timber inventory because those data were crucial to determine the life expectancy of a tribal sawmill. Murray wrote, "For several years the Tribe has urged the inspection of our timber reserves because we believe them to be ripe and mature for cutting." Murray added that the lack of an inventory, coupled with the dire need for improved reservation housing, made the timber inventory a necessary forestry activity.³⁶

The incomplete 1947 timber estimate provided no answers. That angered Julius Murray who wrote, "It is these questions which we would very much like to have answered and that cannot be accomplished until a thorough inspection and technical studies are made of our timber and our proposed timber operations." Murray added, "We also are anxious to know whether our wishes and the wishes of our people are justified in proposing to make use of our resources. We do not wish to cut and deplete our timber reserves until they are ready, but we also do not wish to see mature trees destroyed by fire, insects and diseases."³⁷

The Bureau of Indian Affairs foresters initiated reservation timber inventories based on several gauges. These included the amount of timber resources, tribal desires to develop their timber resources, and the development potential of the reservation timber resources. The Uintah

³⁴Uintah and Ouray Forest Management and Lumber Production Plan, August 15, 1952, Uintah and Ouray Timber Sales, General, 339.5-04-1, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

³⁵U. S. Cong., Senate, Tribal Funds of the Ute Indian Tribe, Utah, Hearings before the Committee on Interior and Insular Affairs, 82nd Cong., 1st sess., on S. 1357 and H. R. 3795, April 25 and July 3, 1951 (Washington, D. C.: Government Printing Office, 1951), p. 65.

³⁶Julius Murray to William H. Zeh, June 16, 1947, 34379-46-339, Uintah and Ouray, Central Classified Files, 1939-1954, RG 75, NA.

³⁷Ibid.

and Ouray Reservation had a low timber inventory priority based on these criteria. The commercial timber volume was low; the tribe had expanded logging in the past decade, but still restricted cutting to tribal members; and without access roads, the development potential remained low.

At this point in time, the small reservation staff was forced to maintain, rather than plan, the forests. District Forester Raymond Bitney observed that the reservation staff was not able to conduct an inventory. Bitney noted in 1947 that Uintah and Ouray range supervisor Paul A. Krause spent 40 percent of his time, during the last three-and-one-half years, dealing with land matters, land surveys, and land complaints. Bitney added that Krause needs to devote more time to range work "as well as a much needed timber appraisal." To correct this imbalance and to begin producing forestry data, Bitney stated, "I believe and recommend that Supervisor Krause should be relieved of his present burden on land matters and that he get more and authentic data on the timber resources of the reservation as soon as possible."³⁸

On the other hand, the Uintah and Ouray forestry staff did not share the tribal business committee's enthusiasm for the sawmill enterprise. The agency's foresters claimed that the reservation commercial forest timber volume was too small to financially support a tribal sawmill. Forester LeRoy D. Arnold observed, "Based on the information in our records, we question that there is a sufficient volume of timber to justify the establishment of a tribal sawmill enterprise."³⁹ District Forester Raymond Bitney opposed the sawmill project, even though he "could not stop them from purchasing a sawmill."⁴⁰ Even more important, the sawmill dispute enabled Bitney to win a small forestry conservation battle with the tribe. He added "that they had agreed under their constitution to follow certain conservation practices in regard to the exploiting of their timber resources on their reservation."⁴¹

The sawmill disagreement became a moot discussion when the United States refused to move the Wyoming sawmill to the Uintah and Ouray Reservation. The inability of the tribe to gain possession of a sawmill still did not end the need for a forest inventory. Because of the absence of technical forestry statistics, the tribe was reluctant to approve any logging contracts until an inventory was completed and a reliable stumpage estimate obtained.

³⁸Raymond H. Bitney to William Zeh, Memorandum, September 3, 1947, Uintah and Ouray Timber Sales, General File 339.5-04-1, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

³⁹L. D. Arnold to Forrest Stone, September 25, 1947, 34379-46-339, Central Classified Files, 1939-1954, RG 75, NA.

⁴⁰Raymond H. Bitney to William Zeh, Memorandum, September 3, 1947, Uintah and Ouray Timber Sales, General File 339.5-04-1, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

⁴¹Ibid.

5.4 The Tribal Lumber Production Enterprise

After the war, tribal housing was dismal and reservation unemployment high. Tribal leaders believed that the development of a timber enterprise would partially address those social needs even without a timber inventory.⁴² As a result, the Uintah and Ouray Tribal Business Committee commenced planning a tribal lumber project in 1950 to provide home construction material at cost, as well as associated wood products for farm and ranch. The tribal housing project became a reality when the tribe acquired military surplus barracks to be finished for domestic use by tribal labor. Range Supervisor Krause described the tribal enterprise as a "project [that] will utilize only cull trees from the yellow pine timber reserves." The agency Forestry Division supported the tribal enterprise and began to mark "all dead, diseased, deformed and fire damaged trees to be cut." Reservation Bureau of Indian Affairs forestry personnel also supervised "the harvesting of these cull trees to see that all phases of proper forest management are properly carried out."⁴³

The first phase of the project required removing 500,000 board feet. The reservation administration wanted the logging "to place the timber lands in top production." Krause also proposed "to do some slash burning to prepare seed beds for reproduction," because the reservation's conifer growth rates were so slow. Also, he wanted "to save the sparse reproduction" because 50 percent of the young pine were being damaged by porcupines.⁴⁴

Reservation personnel Paul A. Krause, Range Manager, and Francis McKinley, Coordinating Officer, prepared "A Preliminary Plan" outlining the objectives of the Lumber Production Enterprise and presented the document to the tribal business committee on December 26, 1950. The Lumber Production Enterprise had six objectives. The first goal was to provide timber to the Tribal Housing Project so as to complete twenty-five partially finished houses that the tribe had purchased from the War Assets Administration. These military structures were unfinished surplus barracks. The Lumber Production Enterprise's second aim was to reduce the local timber shortage in the Uinta Basin, which was forcing the tribesmen to pay top dollar for lumber. The enterprise's third objective was to create employment opportunities for tribal members in the lumber industry. Forest conservation and improvement was the fourth goal. The tribe wanted to log the cull pine and to remove the bug infested and inferior trees. "In general, the project will improve the woods, leaving only healthy trees, open up the woods for new growth, and remove dead wood which consumes excessive amount [sic] of moisture." The

⁴²Paul A. Krause and Francis McKinley, Memorandum to the Tribal Business Committee, December 26, 1950, Uintah and Ouray Timber Sales, General, 339.5-04-1, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

⁴³Annual Forestry and Grazing Report, p. 2, 1950, 339.3 Annual Report, Uintah and Ouray, 1949, Central Classified Files, 1927-1952, Phoenix Area Office, Forestry and Grazing Division, REG 75, Pacific Southwest Archives, Laguna Niguel, CA.

⁴⁴Ibid.

fifth objective was to generate timber revenue for the Ute Tribe. Last of all, the enterprise would make lumber available to tribal members at one half the current market rate.⁴⁵

The tribal enterprise planners proposed to achieve these goals by cutting 500,000 board feet in 1951, and by having the agency Irrigation and Roads Division cut an additional 105,000 board feet. All timber that the tribe and the irrigation branch cut would be pooled and graded. The first class timber would go to the tribe, with Irrigation Division and Roads Division receiving the remaining lower grade timber. The project targeted yellow pine that was either cull or overmature. The logging would be done on the Bear Wallow and Lake Fork timber locations.⁴⁶

The Uintah and Ouray Tribal Business Committee approved the plan and passed a tribal resolution on December 27, 1950, authorizing the Lumber Production Enterprise.⁴⁷ The Tribal Business Committee provided the initial dollars for the project by contributing \$20,000 of tribal reserve funds to ensure the enterprise's success.⁴⁸ Then, the Tribal Business Committee approved an operating plan on January 1, 1951.⁴⁹

The Lumber Production Enterprise began logging operations in 1951. In that year, the Utes logged and sawed 500,000 board feet of cull yellow pine, and hauled the stumpage to Fort Duchesne to season. In addition, the enterprise purchased a planer; subsequently tribesmen completed that task at one half the commercial cost. As for conservation work, the tribe had no funds to begin porcupine control that year.⁵⁰

⁴⁵Paul A. Krause and Francis McKinley, Memorandum to the Tribal Business Committee, December 26, 1950, Uintah and Ouray Timber Sales, General, 339.5-04-1, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

⁴⁶Ibid.

⁴⁷R. L. Cole to Harold Weaver, February 8, 1951, Uintah and Ouray Timber Sales, General, 339.5-04-1, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

⁴⁸Minutes, p. 1, Uintah and Ouray Tribal Business Committee, Fort Duchesne, Utah, 339.5 Uintah and Ouray Timber Sales, General, Fort Duchesne, Utah.

⁴⁹Plan of Operation, p. 1, Uintah and Ouray Timber Sales, General, 339.5-04-1, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

⁵⁰Annual Forestry and Grazing Report, p. 2, 1951, 339.3 Annual Report, Uintah and Ouray, 1951, Central Classified Files, 1927-1952, Phoenix Area Office, Forestry and Grazing Division, RG 75, NA, Pacific Southwest Archives, Laguna Niguel, CA.

Following their initial success, the Uintah and Ouray Tribal Business Committee began preparing for a second season of logging. On July 1, 1951, the tribal business committee passed Resolution 216, approving \$40,000 for cutting, sawing, and hauling of cull ponderosa.⁵¹

Though the Uintah and Ouray forestry staff supported the tribe's lumber enterprise, the Phoenix Area Office declared that the enterprise did not comply with Bureau of Indian Affairs logging regulations. Phoenix Area Office Forester Harold Weaver admitted "that he did not understand tribal enterprises of the nature proposed and that he did not believe that part 61, Title 25, C.F.R., applied." The urgent need for housing convinced Weaver to agree "reluctantly . . . that operations could proceed with the understanding that there be prepared and forwarded for approval an acceptable plan of operation."⁵²

Uintah and Ouray Superintendent Forrest R. Stone disagreed with Weaver's response. Stone claimed that "Clearance for the taking of the timber, as far as the Forestry Division is concerned, is covered by four instruments [resolutions, sales, permits, free permits], all of which apparently come within the constitutional privileges of the Ute Business Committee." The Superintendent argued that "the Tribe does not charge itself, and issues a free permit" for timber but took stumpage as owner and issued permits to the Roads Division for 25,000 board feet and to the Irrigation Division for 80,000 board feet, and both sales were under the \$100 limit.⁵³

Since the Roads Division and Irrigation Division were logging in the same area, both decided to work together. This resulted in substantial monetary savings to each agency. Collectively, they decided to contract their logging requirements, enabling a single mill operator to cut for everyone. Then the lumber was trucked to Fort Duchesne. The Irrigation Division reported that this arrangement delivered lumber to yard for \$41 per thousand.⁵⁴

Despite the successful 1951 logging operation, contractual disagreements continued in 1952. In that year, the tribe entered a contract with the Irrigation Division for cutting 200,000 board feet of cull ponderosa. The tribe readily approved irrigation project sales, considering Irrigation Division sales as tribal sales since the tribesmen benefited from the construction of

⁵¹Ralph M. Gelvin to Harry W. Gilmore, September 29, 1952, Uintah and Ouray Timber Sales, General, 339.5-04-1, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah; Resolution, July 1, 1952, Uintah and Ouray Timber Sales, General, 339.5-04-1, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

⁵²Walter V. Woehlke to Forrest R. Stone, February 27, 1951, Uintah and Ouray Timber Sales, General, 339.5-04-1, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

⁵³Forrest R. Stone to Ralph Gelvin, March 26, 1951, Uintah and Ouray Timber Sales, General, 339.05.04.1, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

⁵⁴United States Department of the Interior, U.S. Indian Irrigation Service, District 4, Annual Report-Costs, FY 1951, p. 3, Land Operations, Bureau of Indian Affairs, Phoenix Area Office.

irrigation projects.⁵⁵ On the other hand, the Phoenix Area Office wanted the tribe and the Irrigation Division to follow alternative procedures because federal regulations did not provide for direct stumpage sales from the tribe to the United States.⁵⁶

Area Office Director L. L. Nelson also addressed the question of price. Nelson noted that the tribe offered to sell the Irrigation Division the cull ponderosa pine for \$1 per thousand board feet. Even though the timber would be used to improve tribal lands, that price was below the market value for saw logs. Nelson did not want cheap timber going to the tribal irrigation project because non-tribesmen diverted water from the irrigation project and received the benefits of the cheap timber. As a result, Nelson urged Superintendent Stone to carefully consider raising timber prices.⁵⁷

The Area Office's last concern was an old problem: the lack of a timber inventory necessary for resource planning. The Phoenix Area Office Director added, "We also believe that before any longrange [sic] timber cutting program is initiated steps should be taken to provide for a survey of the timber resources." Nelson wanted this inventory completed so the Bureau and the tribe would know the "extent of annual growth and other factors, which are important in developing any plan for management of forests on a sustained-yield basis."⁵⁸

Contrary to the area office's wishes, the tribe continued their "unapproved" timber operating plan. At the same time, with the help of the reservation forestry personnel, the tribe submitted a revised "Forest Management and Lumber Production Plan" to the area office in September, 1952.⁵⁹ The tribe claimed in the new plan that the 1947 timber cruise provided the necessary timber data to proceed with the timber enterprise, even though 1,075,000 board feet of yellow pine had been logged since 1947 "leaving approximately 14,298,810 board feet."⁶⁰

⁵⁵Paul L. Howard to Ralph M. Gelvin, April 28, 1952, Uintah and Ouray Timber Sales, General, 339.5-04-1, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

⁵⁶L. L. Nelson to Forrest Stone, May 12, 1952, Uintah and Ouray Timber Sales, General, 339.5-04-1, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

⁵⁷Ibid.

⁵⁸Ibid.

⁵⁹Ralph M. Gelvin to Harry W. Gilmore, September 29, 1952, Uintah and Ouray Timber Sales, General, 339.5.04.01, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

⁶⁰Uintah and Ouray Forest Management and Lumber Production Plan, August 15, 1952, Uintah and Ouray Timber Sales, General, 339.5-04-1, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

The tribe's 1952 plan continued to emphasize home construction. The scheme stressed the importance of constructing 60 houses, with 4 to 5 rooms; these dwellings were to be built for the reservation population using timber logged in the tribe's forest. The 1952 plan stressed non-commercial forest use, declaring that "the volume of timber on this Reservation is not of industrial importance, it is not believed practicable to attempt to carry out a sustained yield management plan." On the other hand, the tribe justified their logging for houses "even though such cutting can not be placed on a sustained yield basis." In addition, the current logging activity would improve the forest growth and improve the general forest condition.⁶¹

Under the revised plan, the tribe proposed to cut 600,000 board feet in 1952, 600,000 board feet in 1953, and 700,000 board feet in 1954. The Phoenix Area Office only approved the tribe's proposed cutting plan for 1952 stumpage to provide homes for reservation residents. The reason for disapproving the amended operating program was the absence of technical data. Area Director Ralph Gelvin stated that based on "casual observations," the tribe's projected cutting plans were within reason. On the other hand, the 1947 Yellowstone and Lake Fork cruises were incomplete and "that timber data on the reservation is extremely incomplete, and there are no growth data available whatever."⁶²

Gelvin continued to stress the importance of an inventory. He recommended "that the Business Committee give serious consideration to making provisions for a complete timber survey with a management plan of all forested areas of the Uintah and Ouray reservation." Gelvin emphasized his willingness to cooperate with the tribe in preparing a forest inventory but, for now, Gelvin noted, the data were "too incomplete for use as a basis for approving a three-year logging program."⁶³

The tribe completed the 1952 cut in June, 1953. By that time, the project had completed fifty homes, had remodeled forty, and had building materials on hand to complete between fifteen to twenty additional houses. In addition, the enterprise had thirty-one approved applications for homes and thirty-five pending home applications.⁶⁴ As a result of this home construction, the tribe passed tribal Resolution No. 763 on October 29, 1953, authorizing another cut of 600,000 board feet for home construction and another cut of 200,000 board feet

⁶¹Ibid.

⁶²Ralph M. Gelvin to Harry W. Gilmore, September 29, 1952, Uintah and Ouray Timber Sales, General, 339.5-04-1, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

⁶³Ibid.

⁶⁴Paul L. Howard to Ralph M. Gelvin, November 20, 1953, Uintah and Ouray Timber Sales, General, 339.5-04-1, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

for the irrigation project.⁶⁵ Agency Range Manager Paul A. Howard reported that the tribe justified their logging decision because they believe "that there is still considerable mature and overmature timber that is losing value each year, and their contention is that this type of timber can and should be cut as soon as possible."⁶⁶

At the time of this logging decision, the reservation forestry resources had not been catalogued and the tribe was aware of this problem. The Uintah and Ouray tribal leaders "recognized that a timber survey with a management plan . . . is a much needed project." Range Manager Howard added that "the Tribe has not closed their mind on that subject, and will no doubt have something definite on such a project included in their long range program now in the planning stages."⁶⁷

The tribal business committee was committed to conducting an inclusive tribal timber survey. As a result, the tribe rejected all individual requests for tribal timber sales.⁶⁸ Since the Bureau of Indian Affairs would not underwrite an inventory, the tribal business committee passed Resolution No. 876, on January 24, 1954, stating that "We hereby authorize an expenditure of \$2,000 for the making of a survey of the Tribe's timber resources."⁶⁹ The tribe hired a forester to cruise the timber on Lake Fork and Yellowstone drainages in 1954, the locations of most of the tribe's mature conifer stands.⁷⁰ This 1954 survey provided limited forest data because the cruise included only a partial inventory of the reservation's commercial forests.

The absence of a reservation timber inventory prevented the Phoenix Area Office from approving the tribe's Lumber Production Enterprise. On the other hand, the Bureau of Indian Affairs was unable to fund the project because the Ute timber program was still a low priority for them. This collective administrative snarl forced the tribe to fund a partial inventory to

⁶⁵Uintah and Ouray Tribal Business Committee, Tribal Resolution Number 763, October 29, 1953, Uintah and Ouray Timber Sales, General, 339.5-04-1, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

⁶⁶Paul L. Howard to Ralph M. Gelvin, November 20, 1953, Uintah and Ouray Timber Sales, General, 339.5-04-1, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

⁶⁷*Ibid.*

⁶⁸H. W. Gilmore to Ralph Gelvin, February 4, 1954, Uintah and Ouray Timber Sales, General, 339.5-04-1, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

⁶⁹Resolution No. 876, January 27, 1954, Uintah and Ouray Timber Sales, General, 339.5-04-1, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

⁷⁰Yargus, "A Forest Management Plan for the Uintah and Ouray Indian Reservation, Utah," p. 23.

insure the continuation of their lumber operation. Ultimately, though, Ute tribal members forced the United States Congress to fund the reservation timber inventory.

5.5 The Ute Partition Act of 1954

Following World War II, an old, ongoing dispute between the Uintah and Ouray mixed bloods and the full bloods reached a new high. The mixed bloods were members of non-Ute tribes who the Uintahs had adopted into their band. These Ute and non-Ute distinctions flared during Ute land claims settlements which brought large amounts of money into the Ute communities. The Uintah Utes were awarded their National Forest settlement in 1936 for the 1905 taking of the northern Uintah conifer forest lands. The Uintah band distributed the funds to all tribal reservation residents because under the Indian Reorganization Act, all the bands organized as one political unit. On the other hand, when the Uncompahgre and White River Utes (Colorado Utes) received a settlement for their Colorado lands in June, 1950, the Uintah Band and the mixed-bloods voted to share the money with all the Utes. The Uncompahgre and White River bands refused to vote; therefore, by default, all reservation residents shared the Colorado Utes' settlement.⁷¹

The Colorado Utes resented this reservation-wide distribution of their claims settlement and refused to participate in the 1951 Ute Three Year Plan. The Colorado Utes, absent in the planning procedure, turned the entire process over to the Uintah band and the mixed-bloods. Subsequently, the mixed bloods gained greater control of reservation governance by participating on loan committees, on long range planning panels, and in tribal government. At the same time, Utah Senator Arthur V. Watkins pressed the Uintah and Ouray leadership to develop another long range program, since the first three year plan would expire in August, 1954. Collectively, these factors drove the full bloods to organize an opposition faction that existed outside the current tribal governing structure.⁷²

The Uintah band and their adopted mixed blood relatives were unable to resolve their differences with the full blood White River and Uncompahgre full bloods. That deadlock forced the tribe to make an inevitable decision. On March 31, 1954, the Utes assembled in General Council and voted, 152 to 8, to divide tribal assets. The Uintah band supported the Colorado

⁷¹Joseph G. Jorgensen, *The Sun Dance Religion: Power for the Powerless* (Chicago: University of Chicago Press, 1972), pp. 151-152; Remarks by Robert L. Bennett on the Uintah and Ouray Program at Bureau Staff Meeting, May 20, 1954, 9639-52-075, Uintah and Ouray, Central Classified Files, 1939-1954, RG 75, NA.

⁷²Remarks by Robert Bennett on the Uintah and Ouray Program at Bureau Staff Meeting, May 20, 1954, 9639-52-075, Uintah and Ouray Central Classified Files, 1939-1954, RG 75, NA.

Utes on this issue. The vote revealed that the full bloods and the mixed bloods were two distinct groups "with very little in common except their interest in tribal assets."⁷³

After the tribal vote, Congress debated legislation to create two tribal rolls, to divide tribal assets, and to transfer the mixed blood shares of tribal property to the mixed blood group. The mixed blood group also favored termination of federal supervision over their portion of tribal assets. In return for this legislation, Congress encouraged the full blood group also to prepare a termination plan designed to end federal supervision over their assets.⁷⁴

Congress passed the Ute Partition Act in August, 1954. The legislation defined a mixed blood as being one half or less Ute blood, and a full blood as being more than one half Ute. The law required the preparation of a final full blood enrollment roll and a mixed blood enrollment roll sixty days after passage. Mixed blood assets would remain in trust for seven years and then fee patents would be issued for their lands. The full bloods were required to prepare a long range development plan preparing for their own termination.⁷⁵

The final enrollment rolls were prepared on April 5, 1956, and published in the Federal Register. At that time, there were 1314 full blood Utes and 490 mixed blood Utes. Based on population, the mixed blood Utes, now called the Affiliated Ute Citizens of Utah, were entitled to .2716186 of the reservation's assets and the full bloods were entitled to .7283814 of the reservation's assets.⁷⁶

A complete inventory of all Ute tribal assets, including a forest inventory, was necessary to divide tribal assets between the two groups. But, some assets were difficult to divide according to a formula. Timber was one resource that was troublesome to partition because a population formula did not translate into sound conservation and forestry decisions. Phoenix Area Office Range Conservationist, Joe A. Wagner, noted that dividing timber was delicate because reservation forests had value to watershed management. The irrigation project depended

⁷³Homer B. Jenkins to Commissioner of Indian Affairs, Memorandum, April 21, 1954, 99639-52-075, Uintah and Ouray, Central Classified Files, 1939-1954, RG 75, NA.

⁷⁴U. S. Cong., Senate, Partitioning and Distribution of the Assets of the Ute Indian Tribe, Uintah and Ouray Reservation, Utah, Se. Rept. No. 1632, 83rd Cong., 2nd sess., pp. 1-5, Serial 11730.

⁷⁵68 Stat. 868-878, August 27, 1954.

⁷⁶"Plan For Division of Assets Between Ute Indian Tribe, Uintah and Ouray Reservation, Utah and Affiliated Ute Citizens, State of Utah, May, 1956," 3866-55-301, Uintah and Ouray, Central Classified Files, 1939-1954, RG 75, NA.

on the forests, especially the high mountain conifers which held the winter snowpack through the summer.⁷⁷

Wagner met in conferences with full blood and mixed blood delegates to partition range resources. Timbered regions of the reservation were included in these range discussions. Regarding the reservation timber resources, full blood and mixed blood delegates agreed that "The timber resource was to remain with the full bloods' range resource." Wagner summarized the delegates' initial decision, "In other words, it would be impractical to attempt to divide the timber resource, therefore, it would remain with the full blood range portion and treated in the same respect as minerals, gas, oil, etc."⁷⁸

The next step in dividing the timber assets was to conduct a timber inventory. This positive aspect of the Ute Partition Act on tribal forestry required a timber inventory to determine the timber's commercial value before the timber assets could be divided. To accomplish this, in 1956 the Bureau of Indian Affairs entered into a contract to prepare a forestry inventory of the Uintah and Ouray Reservation with Hammon, Jensen and Wallen, a forestry mapping and consulting company from Oakland, California.

Hammon, Jensen and Wallen completed their study in May, 1957. Their report provided the first, but long overdue, Uintah and Ouray forest inventory. They employed "a sample-plot inventory made on the ground and related to the timber stand classification . . . as determined from the study of aerial photos and ground observations," in preparing their forest estimate.⁷⁹

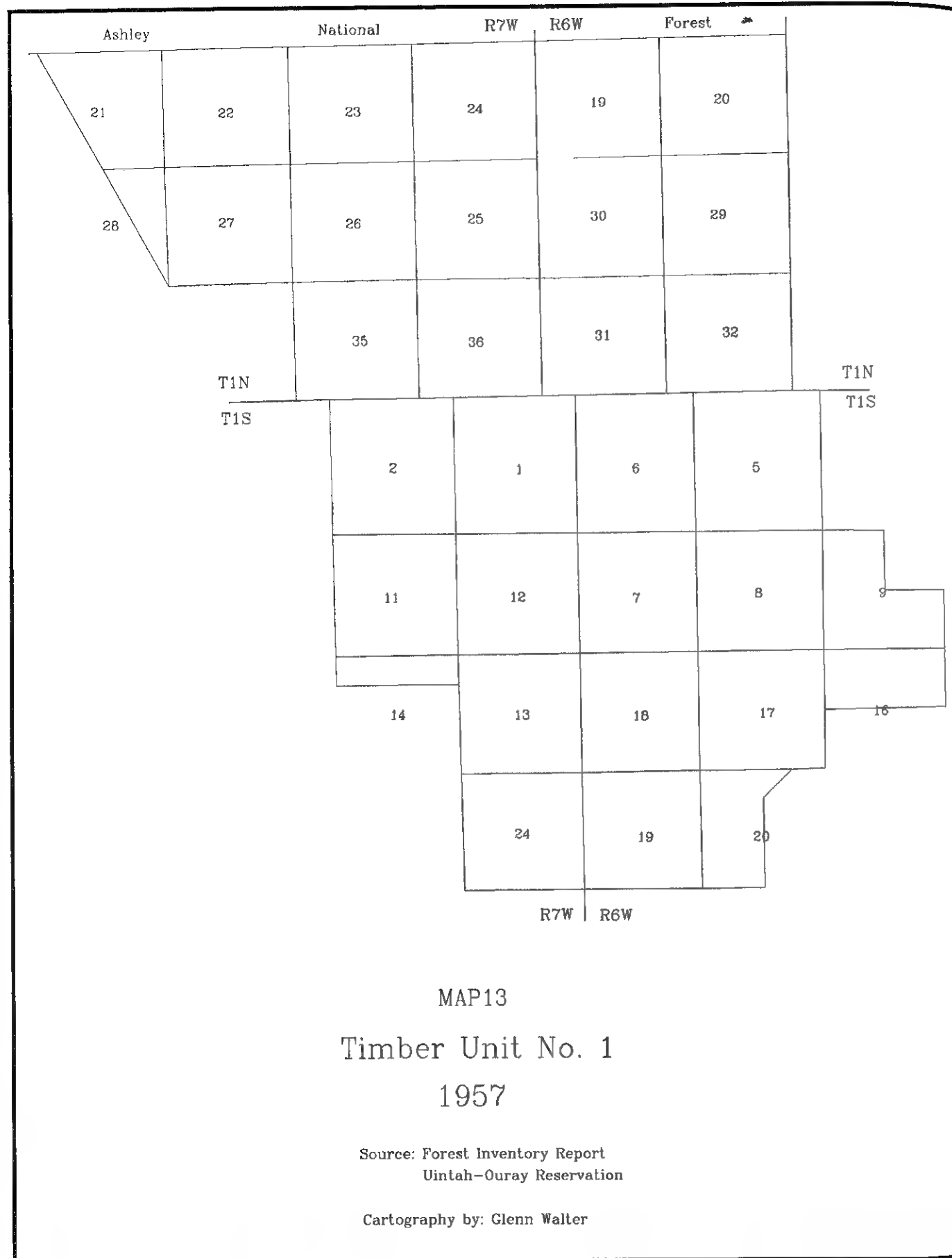
Hammon, Jensen and Wallen divided the Uintah and Ouray commercial forest "into three units."⁸⁰ The inventory crew located Unit 1 in the northwest corner of the reservation between the upper Duchesne River and Rock Creek (See Map 13). Hammon, Jensen and Wallen determined that only 3,935 commercial timbered acres existed in this 19,535-acre unit. Lodgepole pine, Engelmann spruce, Douglas-fir, and alpine fir were found in larger numbers

⁷⁷Ibid.

⁷⁸Joe A. Wagner to Area Director, June 7, 1956, Memorandum, enclosure, "Substitute Paragraph 8 for Plan For Division of Assets Between Ute Indian Tribe, Uintah and Ouray Reservation, Utah," Report No. 1, Division of Range Resources between the full and mixed bloods of the Uintah and Ouray Reservation, May, 1956, p. 1, Land Operations, Bureau of Indian Affairs, Phoenix Area Office.

⁷⁹Hammon, Jensen and Wallen, "Forest Inventory Report, Uintah-Ouray Reservation, Fort Duchesne, Utah" (n.p.), Mapping and Forestry Services, Oakland, California, May 1957, Branch of Forestry, Bureau of Indian Affairs, Phoenix Area Office.

⁸⁰Yargus, "A Forest Management Plan for the Uintah and Ouray Indian Reservation, Utah" p. 51.



than ponderosa pine. The timber had a gross volume of 13,193,000 board feet⁸¹ with an estimated value of \$95,792.18.⁸²

Timber Unit 2 was east of Unit 1 and comprised the northern forested lands on the Lake Fork and Yellowstone drainages (See Map 14). The Ashley National Forest bounded the north and west side of this 9,790-acre unit. Unit 2 consisted of 4,219 commercial timbered acres with a gross volume of 15,295,000 board feet valued at \$154,338.13. Ponderosa pine was the dominant species.⁸³

Forest Unit 3 was east of Unit 2 on the reservation's north central boundary and was bordered by the Uinta River on the east and the Dry Gulch drainage on the west (See Map 15). The Ashley National Forest was adjacent to the north and west sides of Unit 3. This unit consisted of 16,869 acres of which 10,769 acres possessed commercial timber. The gross timber volume was 23,215,000 board feet with a value of \$225,830.95. Lodgepole pine, ponderosa pine, and Engelmann spruce were the dominant species.⁸⁴

Besides surveying these three commercial timber units, Hammon, Jensen and Wallen examined other reservation timbered lands. The writers concluded in their inventory, "It may be well to point out that a very substantial acreage in addition to that indicated on the contract maps as timbered was found to support timber stands." They added, "The aerial photography was designed to cover this possibility but even so there are minor areas of timber and aspen which occur outside of the inventory area as included in this report."⁸⁵

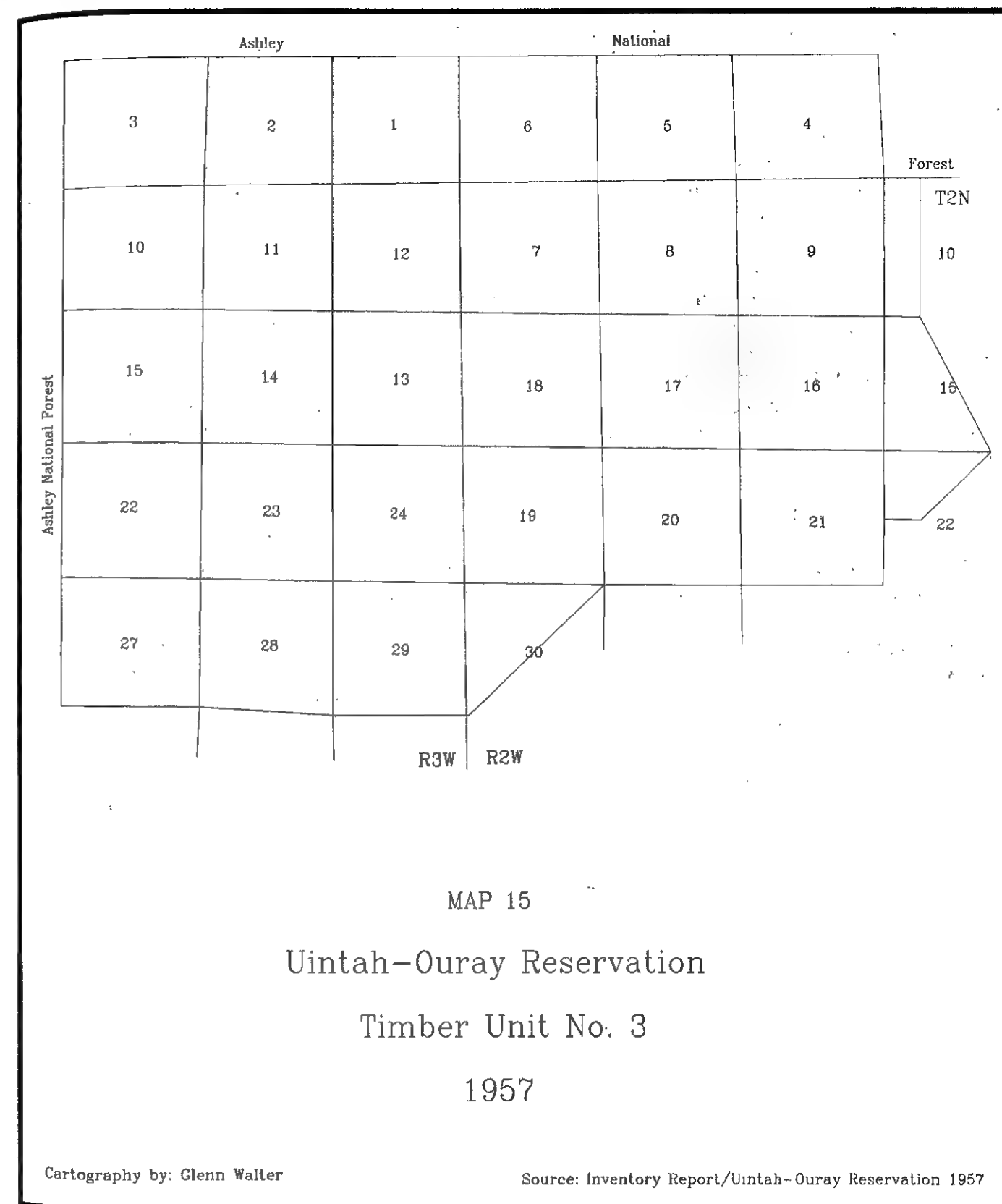
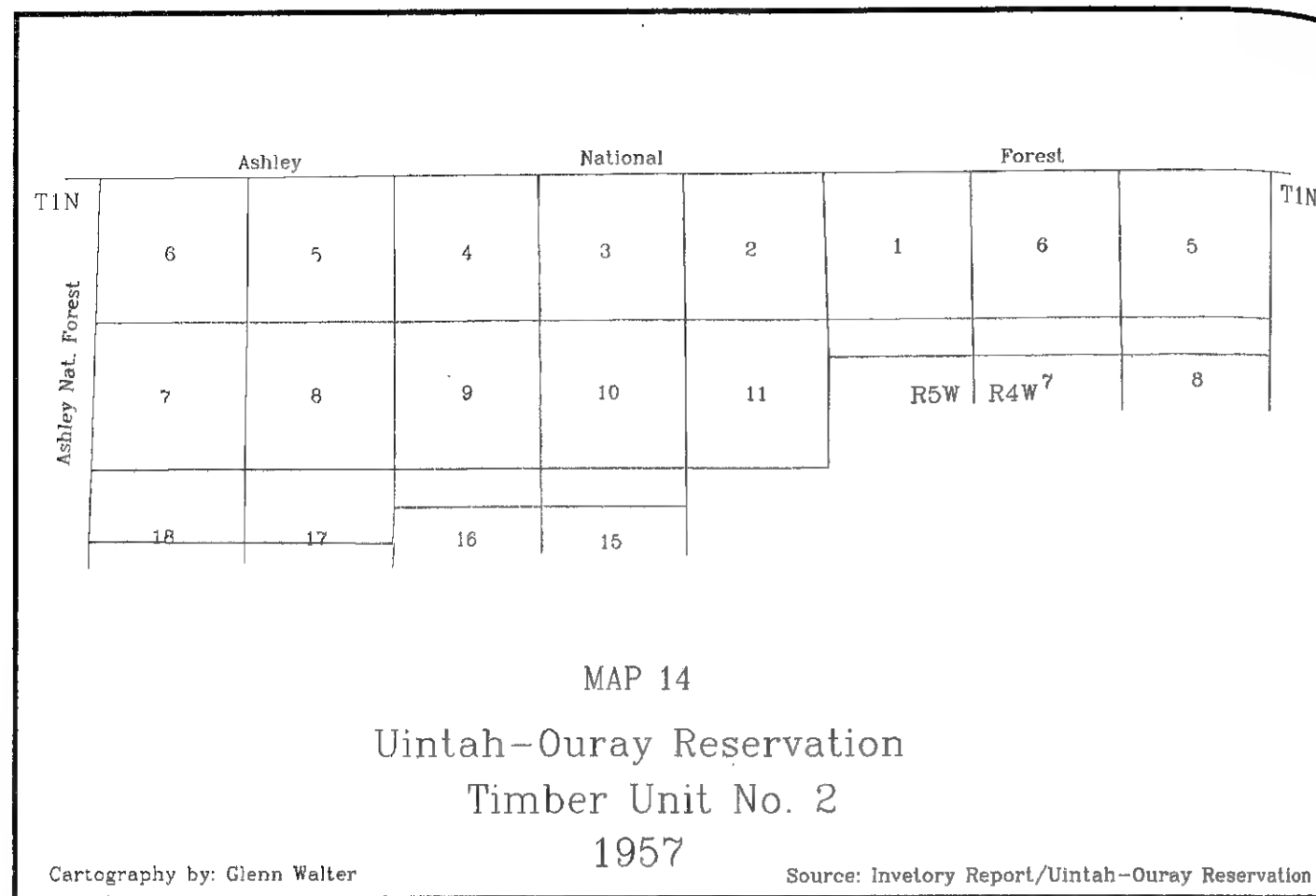
⁸¹Hammon, Jensen and Wallen, "Forest Inventory Report, Uintah-Ouray Reservation, Fort Duchesne, Utah" (n.p.), Mapping and Forestry Services, Oakland, California, May 1957, Branch of Forestry, Bureau of Indian Affairs, Phoenix Area Office.

⁸²Yargus, "A Forest Management Plan for the Uintah and Ouray Indian Reservation, Utah," p. 10.

⁸³Hammon, Jensen and Wallen, "Forest Inventory Report, Uintah-Ouray Reservation, Fort Duchesne, Utah" (n.p.), Mapping and Forestry Services, Oakland, California, May 1957, Branch of Forestry, Bureau of Indian Affairs, Phoenix Area Office; Yargus, "A Forest Management Plan for the Uintah and Ouray Indian Reservation, Utah," pp. 10, 22.

⁸⁴Hammon, Jensen and Wallen, "Forest Inventory Report, Uintah-Ouray Reservation, Fort Duchesne, Utah" (n.p.), Mapping and Forestry Services, Oakland, California, May 1957, Branch of Forestry, Bureau of Indian Affairs, Phoenix Area Office; Yargus, "A Forest Management Plan for the Uintah and Ouray Indian Reservation, Utah," p. 10.

⁸⁵Hammon, Jensen and Wallen, "Forest Inventory Report, Uintah-Ouray Reservation, Fort Duchesne, Utah" (n.p.), Mapping and Forestry Services, Oakland, California, May 1957, Branch of Forestry, Bureau of Indian Affairs, Phoenix Area Office.



Hammon, Jensen and Wallen also described the mortality of the timber, noting that the timber inventory figures do not provide the entire picture. The report stated "For some reason fewer trees have died during the past two years than in years previous." The study continued, praising the past, unapproved tribal logging practices and noting that "Most of the Ponderosa pine stands have been logged to remove the overmature and high-risk trees. This system has resulted in a stand of good health and vigor. With mainly vigorous trees now remaining mortality is very low." In conclusion, Hammon, Jensen and Wallen stated, "Mortality in small Ponderosa pine results mainly from porcupine damage."⁸⁶

The first division of tribal timber assets occurred following the Dick Hollow fire in the summer of 1956. That blaze burned several hundred acres in the north central section of Timber Unit 1, and was the largest forest fire to strike the Uintah and Ouray Reservation in twenty-five years (See Map 16). Following the fire, the Bureau of Indian Affairs attempted to sell the fire damaged trees. Salvage timber bids were opened twice before contractor Max E. Birch agreed to purchase the fire damaged timber in 1957. The Affiliated Utes received \$110.66, the full bloods received \$296.74, and the Bureau of Indian Affairs received \$454.27 for administering the sale.⁸⁷

Tribal timber resources were officially divided between the mixed bloods and full bloods following the completion of the 1957 forest inventory. The two groups met on October 23, 1957 to discuss the division of tribal timber assets. The mixed bloods claimed "all of the timber in appraised Unit No. 1 so as to keep manageable boundary lines." Timber Unit No. 1 "was appraised at \$95,792.18 which represents 20.12605% of the total appraised value [of the commercial timber in Units 1, 2, and 3] of \$475,961.26." The mixed bloods were still entitled to \$33,487.73 as their share of the timber resources. The mixed bloods agreed to a cash settlement for the balance.⁸⁸ The full bloods assumed control of the timber in Unit 2 and Unit 3 and the woodlands that were used for grazing purposes.⁸⁹

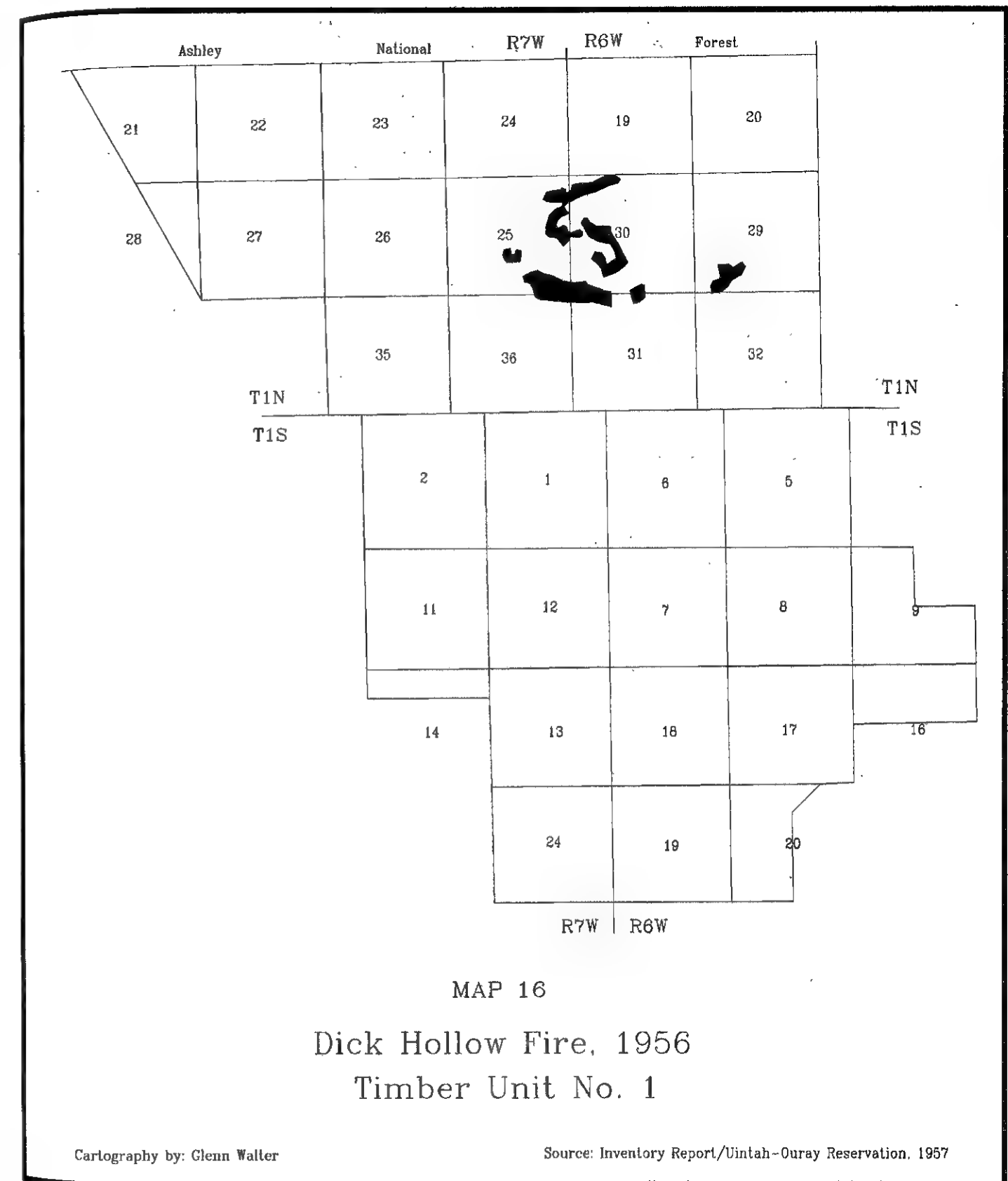
The two groups also divided the Hill Creek Extension timber. This was primarily range land with very few timber resources. There existed 2,848 acres of pinyon and juniper that had value as house logs, posts, and fuel wood. Since the range remained with the full bloods, they

⁸⁶Ibid.

⁸⁷F. M. Haverland to Commissioner of Indian Affairs, November 25, 1957, 16359-57-339, Uintah and Ouray, Central Classified Files, 1939-1954, RG 75, NA.

⁸⁸Harry Stevens, History of Ute Partition Act, PL-83-671, 1963, p. 21, Land Operations, Bureau of Indian Affairs, Phoenix Area Office.

⁸⁹Yargus, "A Forest Management Plan for the Uintah and Ouray Indian Reservation, Utah," p. 10.



agreed to "pay 46 cents per acre for this limited timber resource consisting of 2,848 acres. In retaining this timber, the full-bloods paid the mixed-bloods \$355.84"⁹⁰

After the timber resources were divided, the Affiliated Utes requested the Bureau of Indian Affairs to prepare a Dry Mountain logging report in 1958. Phoenix Area Office Forester Carthon R. Patrie examined the proposed logging site and described the area as rough, cut by several drainages, containing 1,075 acres of merchantable timber. The logging stand contained Douglas-fir and alpine fir. Patrie also noted, "Grazing is the principal use of this area."⁹¹

Patrie outlined the purpose of the sale. He declared, "The objects of this sale are: to help the Affiliated Utes financially, to provide access roads for better use of the range, and to make corral poles available to Affiliated Ute members."⁹² The depressed local and national logging markets made this the wrong time to advertise a logging sale, but the mixed bloods urged the Bureau of Indian Affairs to approve the sale (See Map 17). The Affiliated Utes wanted to improve the land's grazing; they were not interested in developing a forestry program.

The Phoenix Area Office forester concurred with the mixed bloods. He wrote, "Not only would this liquidation by timber sales facilitate the ultimate full use of this land for stock range, but it quite evidently would greatly simplify the problem of division of the assets among the mixed-blood enrollees." Patrie also stressed the importance of caution, observing that "obviously the Bureau would not wish to conduct an aggressive timber sale program which would dispose of all merchantable timber prior to December 31, 1960, if the group wished to manage the forest for the continued production of forest products, since a different program might be indicated in the latter case."⁹³

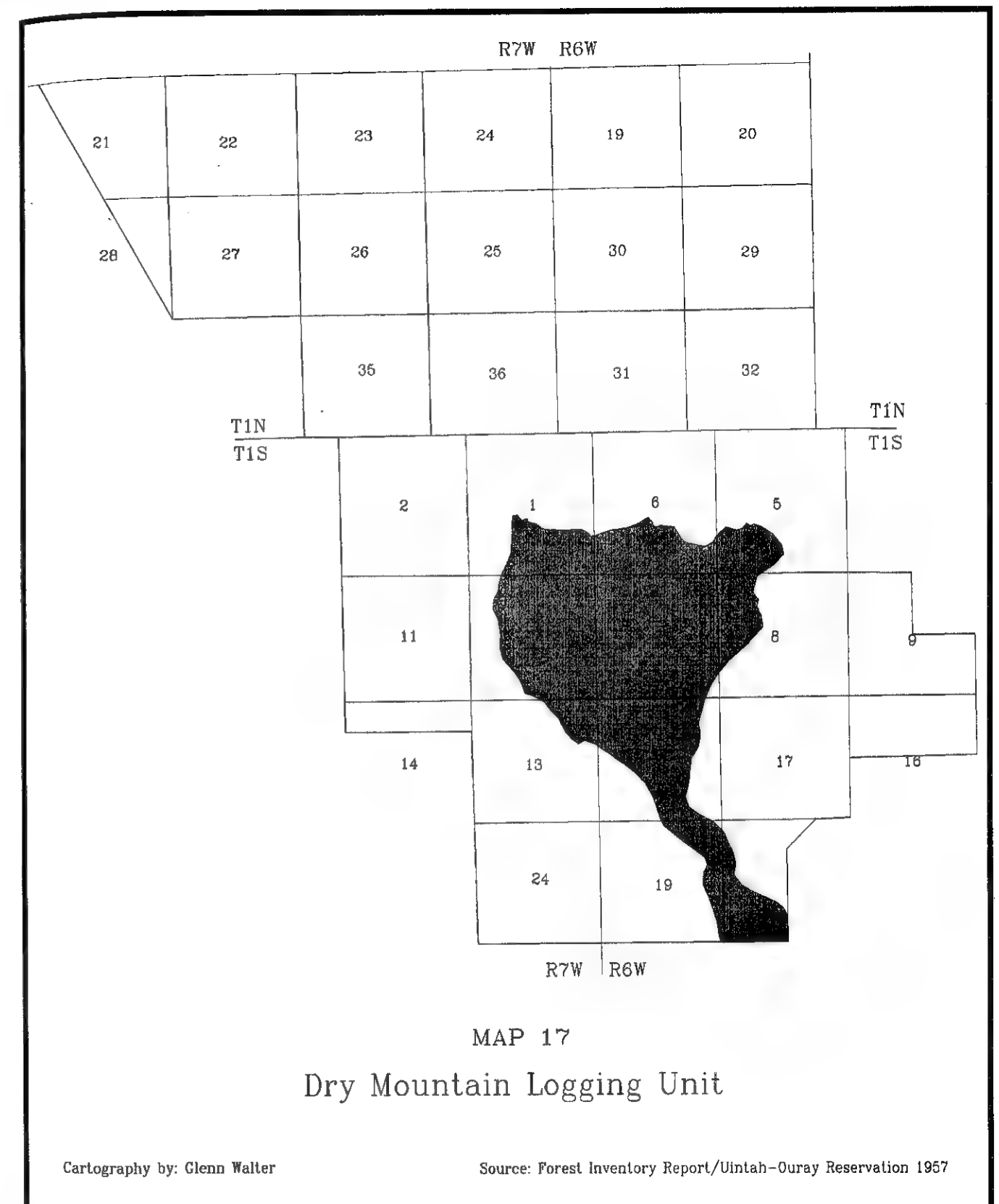
The Dry Mountain timber harvest represented the separation of tribal timber assets between the Affiliated Utes and the full bloods. This division of tribal assets stems from the inability of the two groups to cooperate within the framework of a single tribal government because each group's objectives were so different from the other. Mixed blood leaders accepted control of the reservation government after World War II, and initiated plans to use all tribal resources more aggressively. The conservative Utes did not support this approach. As a result of these differences, the tribal resources were eventually divided between the two groups.

⁹⁰Harry Stevens, History of Ute Partition Act, PL-83-671, 1963, p. 21, Land Operations, Bureau of Indian Affairs, Phoenix Area Office.

⁹¹Forest Officer's Report, Timber Sales, Dry Mountain Logging Unit, May 23, 1958, 339.5, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

⁹²Ibid.

⁹³Carthon R. Patrie and M. C. Collins to Area Director, May 26, 1958, 339.5, Timber Sales, Dry Mountain Logging Unit, 1958, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.



The logging of Dry Mountain symbolized subsequent forestry practices at Uintah and Ouray. Often reservation timber was logged to provide materials to support the local stock industry by providing posts and poles. In addition, the continual depressed local lumber industry was often unable to consume tribal lumber when it became available for sale. To make logging even more difficult, marketable trees were often inaccessible either due to the lack of roads or to the rough terrain. In addition, Ute logging sales had to compete with Ashley National Forest sales. At the very time of the Dry Mountain cut, the United States Forest Service was selling mountain pine beetle infested timber for salvage and dumping more lumber on the market than the local mills could saw. As a result, in the late 1950s, tribal timber was difficult to sell on the local market, especially salvage timber.

5.6 Logging Timber Unit 2 and Timber Unit 3

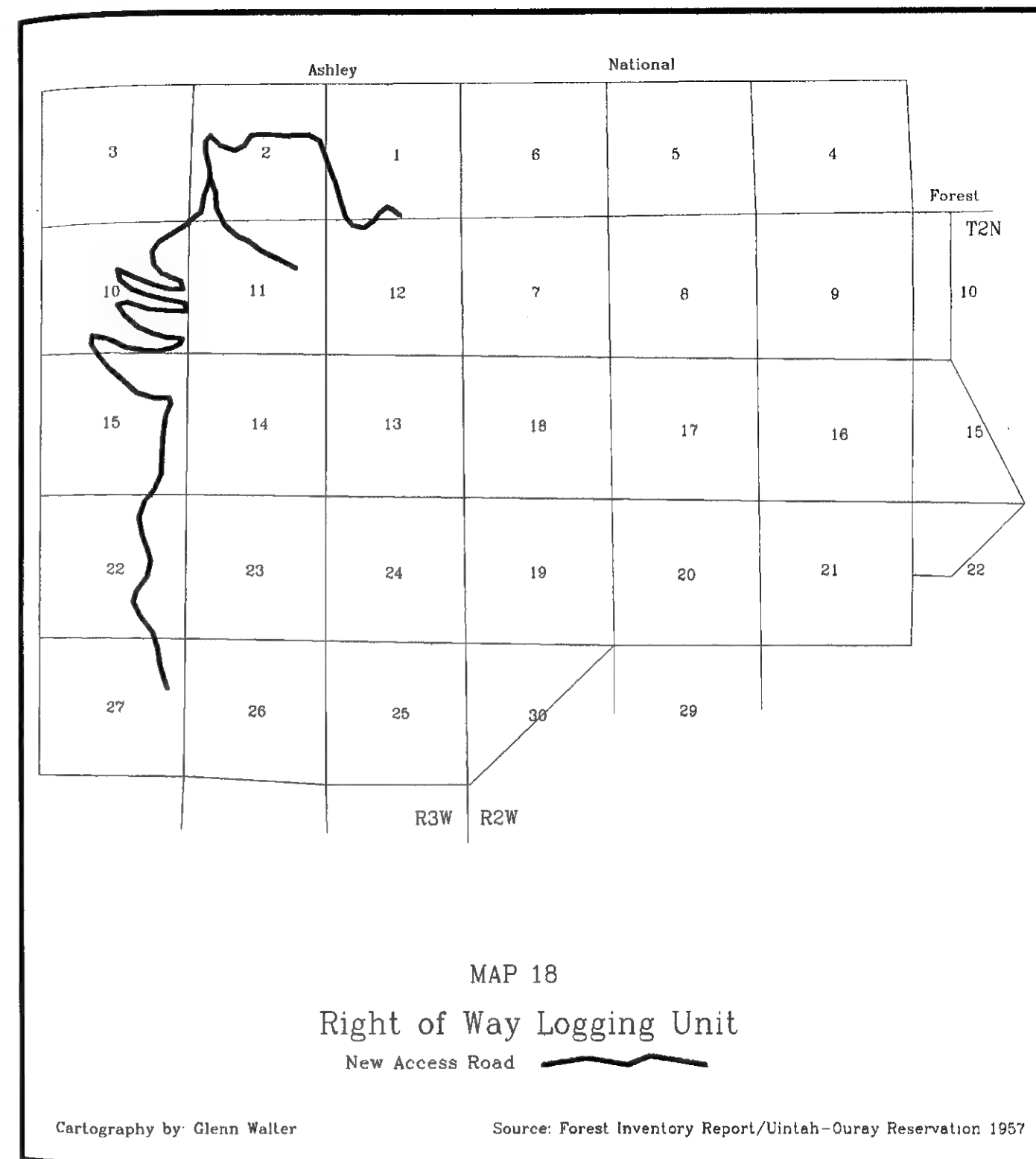
The full bloods controlled Timber Unit 2 and Timber Unit 3 and eventually, in the 1960s, the tribe approved logging the mature trees on these two tracts. These were contract sales and represented the largest timber volume logged on the reservation. As a result of this increased cutting, reservation forestry activities and forestry personnel increased. A professional forester and forest technician who possessed the expertise to prepare harvest plans and to conduct conservation work were assigned to the reservation.

Contrary to the Affiliated Utes, the Uintah and Ouray Tribal Business Committee did not authorize any major logging projects during the 1950s. Instead they waited for the market to improve. In preparation for a profitable market, the tribe built a new fourteen mile road through Dark Canyon, making 9,000 acres of land accessible to logging. A small right-of-way logging project was completed in 1959 to salvage the stumpage along the new Dark Canyon access road (See Map 18). Tribal loggers also cleared lodgepole pine for corral poles and mine props during the right-of-way logging.⁹⁴

Corresponding to this increased logging activity, the Bureau of Indian Affairs assigned a professional forester to the Uintah and Ouray Reservation. Wayne O. Yargus was employed as reservation forester in 1957 and he prepared the first Uintah and Ouray timber management plan in 1960. The forest management objectives were to improve the forest; harvest the mature and over-mature trees; provide income to the tribe; and increase forest reproduction rates.⁹⁵

⁹⁴Forest Officer's Report, Right-of-Way Logging Unit, January 12, 1959, 339.5 Timber Sales, 1959, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah; Annual Report submitted 1959 to the General Council of the Ute Indian Tribe, Uintah and Ouray Agency, np, Branch of Land Operations, Bureau of Indian Affairs, Fort Duchesne, Utah, Phoenix Area Office.

⁹⁵Yargus, "A Forest Management Plan for the Uintah and Ouray Indian Reservation, Utah," p. 34.



His report described only Timber Unit 2 and Timber Unit 3 since Timber Unit 1 had been logged.⁹⁶

The low timber volume dictated that non-logging uses of the forests were more important than logging. Yargus reported that grazing livestock was a more valued employment of the forests than logging, and that the stock growers had built all the forest roads, except for the Dark Canyon Loop Road built in 1958 to provide the agency with timber and fire access.⁹⁷ Scattered small commercial timber stands, with low values when compared with trees from other regions, contributed to the lack of interest in timber.⁹⁸

The tribe's timber resource was too small to develop a sustained yield sawmill operation. Despite the fact that the timber would never support a tribal sawmill, Yargus noted there was room for growth in the local lumber economy. Even though the local sawmills were family owned operations of limited capacity, Yargus claimed that expanding the existing reservation logging roads would increase the local lumber market.⁹⁹ To minimize costs, the forester recommended that the tribe have the logging operators construct roads.¹⁰⁰

Yargus observed that Timber Unit 2, which was at an elevation from 8,000 to 10,000 feet, "has been cutover to a large extent." He noted that only one area of virgin pine remained in this unit with a volume of 2,900,000 board feet.¹⁰¹ In addition, porcupines were damaging some trees in Unit 2 and Yargus suggested that steps should be taken to eradicate them.¹⁰²

Lodgepole pine covered most of the steep rocky slopes in Timber Unit 3. Young growth ponderosa pine was found on the lower elevations,¹⁰³ but many of these trees were infected with mountain pine bark beetle.¹⁰⁴ The infestation started on the Ashley National Forest and spread onto tribal lands, infesting the timber at Bear Wallow. In 1961 the reservation forestry

⁹⁶*Ibid.*, p. 51.

⁹⁷*Ibid.*, p. 25.

⁹⁸*Ibid.*, p. 14.

⁹⁹*Ibid.*, pp. 14-16, 47.

¹⁰⁰*Ibid.*, p. 29.

¹⁰¹*Ibid.*, p. 22.

¹⁰²*Ibid.*, p. 31.

¹⁰³*Ibid.*, p. 22.

¹⁰⁴*Ibid.*, p. 41.

staff and the Ashley National Forest obtained Forest Pest Control Act funds. The reservation forestry staff entered into a cooperative agreement with the United States Forest Service to undertake joint control efforts.¹⁰⁵

Yargus also reported that Unit 3 had steep 80 percent slopes with the potential to erode quickly if subjected to heavy logging. Poplar, lodgepole pine, and aspen slowed moisture run off, providing summer water for the irrigation project.¹⁰⁶ Yargus asserted, "Considerable areas have been cut over in both the forest units," and noted that the cut was light and another cut should be made in both areas using improved logging methods.¹⁰⁷

The forester reported that the timbered lands also needed improvement work, especially thinning. On the other hand, the cost of planting was too expensive for the reservation forestry budget.¹⁰⁸ Yargus lamented that the lack of forest growth studies of the forest made it difficult to prepare a management plan. Despite all the problems, Yargus described the forest as healthy with a low mortality rate.¹⁰⁹

Yargus rated the forest vigor at C. He described "The main reason for this assumption was to keep the growth estimate conservative and to compensate for the poorer growing conditions in this area."¹¹⁰ As a result, he estimated that the rotation would take 120 years due to the forest's slow growth rate, and that translated into a 30 year cutting cycle. Yargus added, "Because of the limited supply of timber on the Reservation it is not economically feasible to extend the cutting period to 30 years." Yargus concluded that the cutting cycle would equate to an annual cut of only 1,000,000 board feet.¹¹¹

Because of the lack of technical data, Yargus prepared a conservative Uintah and Ouray commercial forestry logging program. Despite that fact, he wanted future cuts to accomplish several objectives including the removal of high risk materials from the forest; thin the stands

¹⁰⁵Carthon R. Patrie to Area Director, Memorandum, June 5, 1961, Protection from Insects and Disease, "1961 Mountain Pine Beetle Infestation-Bear Wallow," 339.15, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

¹⁰⁶Yargus, "A Forest Management Plan for the Uintah and Ouray Indian Reservation, Utah," p. 13.

¹⁰⁷*Ibid.*, p. 23.

¹⁰⁸*Ibid.*, p. 29.

¹⁰⁹*Ibid.*, pp. 35, 47.

¹¹⁰*Ibid.*, p. 35.

¹¹¹*Ibid.*, p. 42.

of crowded timber; salvage all commercial, marketable timber;¹¹² maintain the annual cut at 6,000,000 board feet to 7,000,000 board feet;¹¹³ and establish a harvesting policy "to manage for young thrifty growth and to harvest the less thrifty, older trees and the high-risk trees . . . [which] will also cause an increased growth rate per acre which, in turn, will mean more income from the forest."¹¹⁴ To achieve those objectives, Yargus recommended cutting 74 percent of the commercial forest, leaving 150 foot openings between seed trees.¹¹⁵

Wayne O. Yargus's pessimistic study provided an incomplete management program suffering from the lack of technical forest growth data. Yargus did not implement this logging program based on incomplete data because he left his forestry position at Uintah and Ouray in 1961, and forester Roy H. Degler assumed the duties of reservation administrative forester. During his tenure, Degler supervised contract timber sales, following Yargus's 1960 timber management plan as closely as possible.

To prepare for this increased work load, Degler sought authority to increase the forestry personnel, seeking assistance with the sales. The forester argued that additional staff were crucial to the pending forestry activities which included contract logging, forestry improvement, and a forestry inventory. In particular, Degler wanted additional manpower to mark trees for cutting on the large cuts. Obtaining another forestry position proved to be difficult.

Early in February, 1963, Degler demanded the appointment of a GS-4 position "to begin the long neglected forest inventory." He argued that this assignment was crucial, for "without the position, the Forester will not be able to develop the first phase of the proposed contract timber sale."¹¹⁶ Degler's persistence reaped rewards, and at the beginning of the 1964 fiscal year, the Uintah and Ouray Forestry staff increased with the appointment of Grover Walt Sixkiller to the position of forestry aid. Now the forestry staff consisted of a forester, a forestry aid and two fire control aids.

To conduct the pending cuts, Degler trained himself in the crucial points associated with large contract sales. For example, Assistant Area Forester Paul Truesdell traveled to the Uintah

¹¹²Ibid..

¹¹³Ibid., p. 46.

¹¹⁴Ibid., pp. 46-47.

¹¹⁵Ibid., pp. 43, 46.

¹¹⁶B. A. Macho to W. Wade Reed, February 20, 1963, FY Chrono File, 61-63, Branch of Forestry, Bureau of Indian Affairs, Uintah and Ouray Agency, Fort Duchesne Utah.

and Ouray Reservation and provided Degler with additional instructions in timber cruising and in large contract sale procedures and preparations in June, 1963.¹¹⁷

The timber market also gained strength by 1963 and Degler was optimistic that local interest in tribal timber would continue. He reported, "Buyer interest continues to come in, indicating that there is a need for and a possibility of several three to four million board foot sales in the immediate future."¹¹⁸

The tribal contract sales began when the Uintah and Ouray Tribal Business Committee authorized the Twin Potts Timber Sale in Unit 2 in 1963. The Branch of Forestry advertised this 3,164,000 board foot, insect-infested ponderosa pine sale for \$11.60 a thousand board feet. Wagstaff and Reed Lumber Company purchased the offer for the advertised price.¹¹⁹ The success of the Twin Potts Sale spurred Utah Senator Frank E. Moss to announce in September, 1964, that Ute timber sales provided ten full-time positions in the lumber industry and ten full-time positions in related industries.¹²⁰

As the senator boasted of tribal logging success, the Uinta Basin lumber market had begun to decline when the tribe opened the Pigeon Water Logging Unit for bids in September, 1964 (See Map 19). This sale consisted of 1,680,000 board feet of lodgepole pine. Competition from the Ashley National Forest and the logging site's location deterred anyone from bidding. In the spring of 1965, a local lumberman, Charlie Fabrizer, purchased the timber for the appraised price.¹²¹

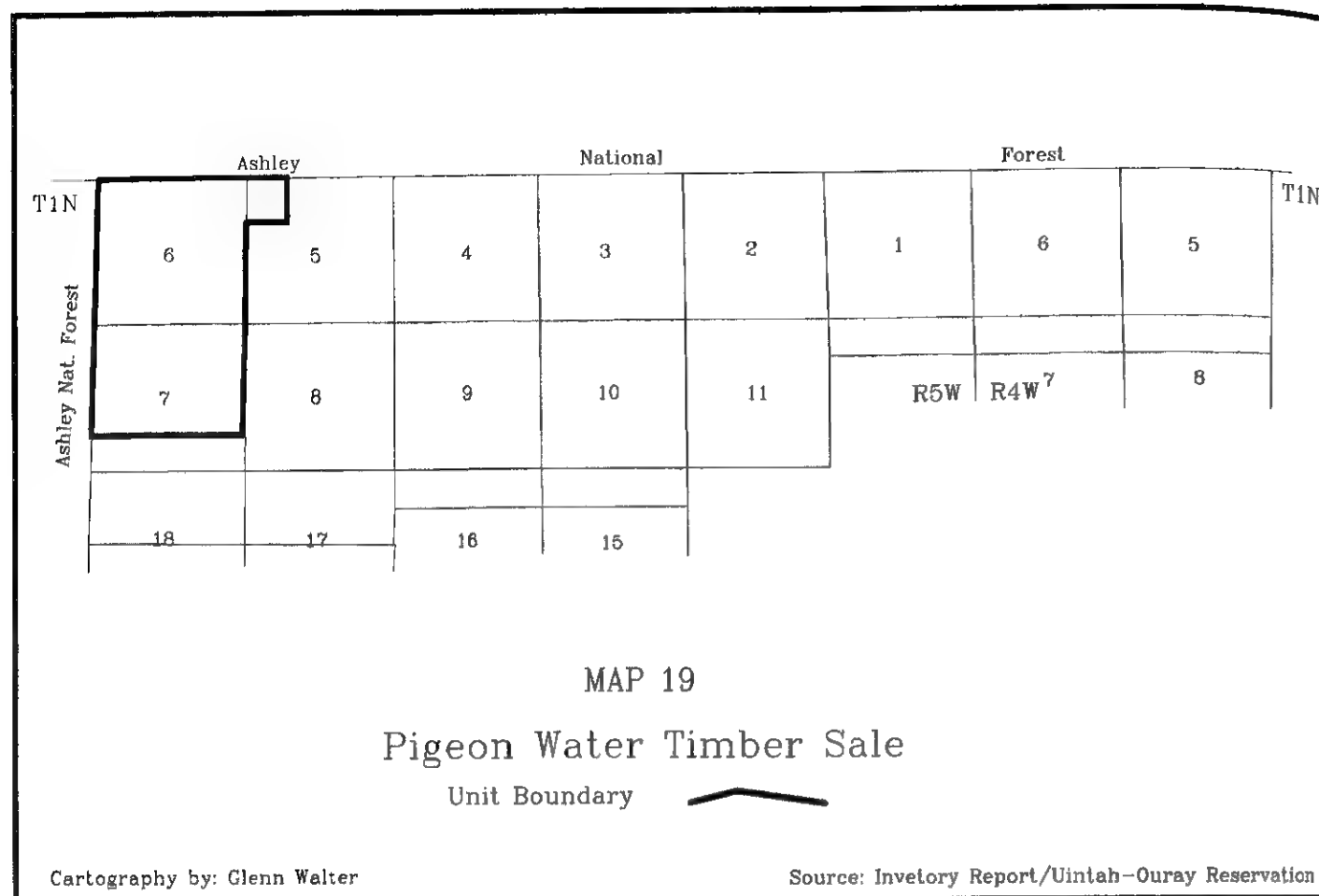
¹¹⁷Monthly Narrative Report, June, 1963, FY Chrono File, 61-63, Branch of Forestry, Uintah and Ouray Agency, Bureau of Indian Affairs, Fort Duchesne, Utah.

¹¹⁸Ibid.

¹¹⁹Monthly Narrative Report, June, 1963, FY Chrono File, 61-63, Branch of Forestry, Uintah and Ouray Agency, Bureau of Indian Affairs, Fort Duchesne, Utah; Twin Potts Logging Unit, Timber Sale Data, Branch of Forestry, Division of Resources, Bureau of Indian Affairs, Phoenix Area Office.

¹²⁰"All Time Lumber Sale Noted on Indian Range," p. 7, Uintah Basin Standard, Vernal, Utah, September 3, 1964.

¹²¹Pigeon Water Sale, Timber Sale Data, Branch of Forestry, Division of Resources, Bureau of Indian Affairs, Phoenix Area Office; B. A. Narcho to W. Wade Head, November 18, 1964, Timber Sales - Pigeon Water, 339.5, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.



One year after soliciting bids on the Pigeon Water Sale, in 1965, the tribe authorized the Yellowstone Logging Unit Timber Sale. This was an over-mature ponderosa pine sale consisting of 1,297,711 board feet and was in the same area as the previous Twin Potts Sale (See Map 20). The Great Lake Timber Company purchased the timber at \$11.21 per thousand board feet.¹²²

Then the tribe sold Bear Wallow Logging Unit in February, 1966. This timber sale consisted of 1,285,183 board feet of primarily ponderosa pine (See Map 21). A. A. Lewis purchased the timber, paying \$11.79 for the ponderosa pine, \$5.00 for the lodgepole pine, and \$10.50 for the Douglas-fir.¹²³ The following fall, the Uintah and Ouray Tribal Business Committee offered the Lower Pigeon Water Logging Unit (See Map 22). Leland and C. Gale Wadstaff purchased the unit containing 2,450,229 board feet of ponderosa pine for \$11.00 per thousand board feet.¹²⁴

The Uintah Logging Unit A was re-advertised in 1969, having been first offered for sale in 1967. This unit was in the north central section of the reservation and contained no ponderosa pine. The trees were "stagnated aspen stands, dense small lodgepole pine saplings and poles to over-mature stands of lodgepole pine and spruce."¹²⁵ Some stands were on 100 percent slopes, making this a very unattractive logging unit due to rough terrain. Degler delayed offering this unit again until after the construction in the Uinta Basin of a stud mill that could handle small diameter trees.¹²⁶

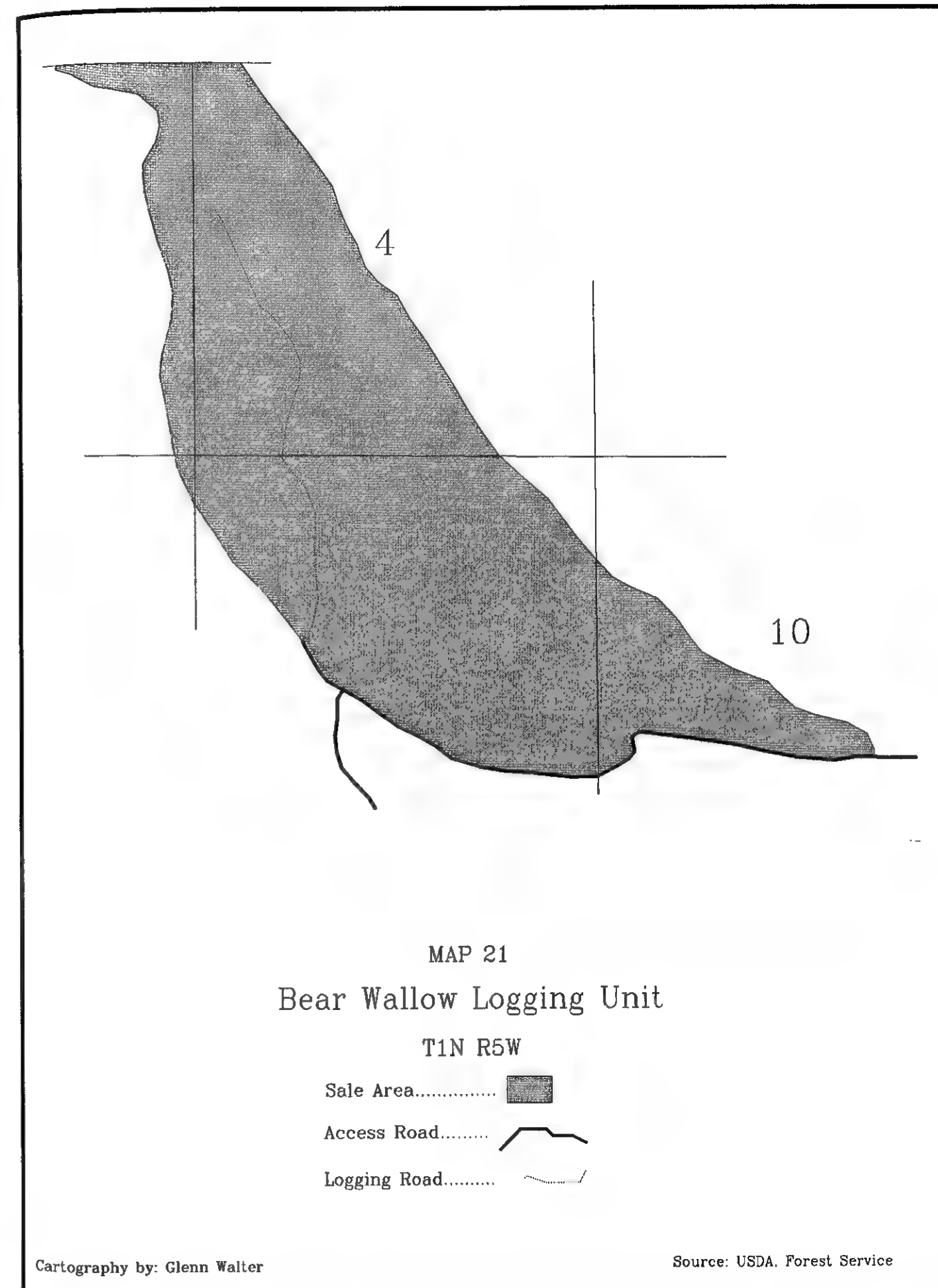
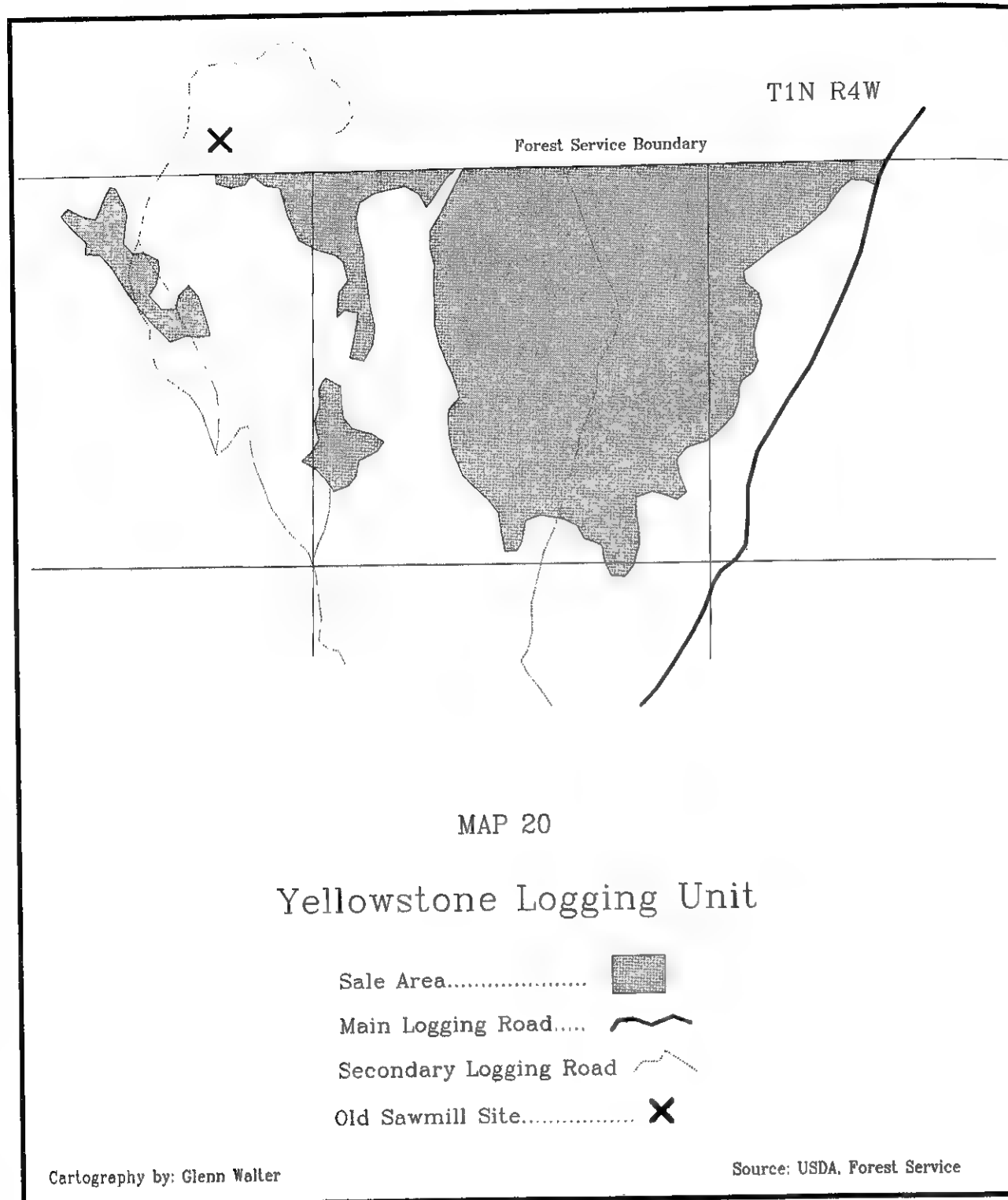
¹²²Yellowstone Logging Sale, Timber Sale Data, Branch of Forestry, Division of Resources, Bureau of Indian Affairs, Phoenix Area Office; Forest Office's Report, Yellowstone Logging Unit, Uintah and Ouray Reservation, Fort Duchesne, Utah, September 10, 1965, Timber Sales - Yellowstone, 339.5, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

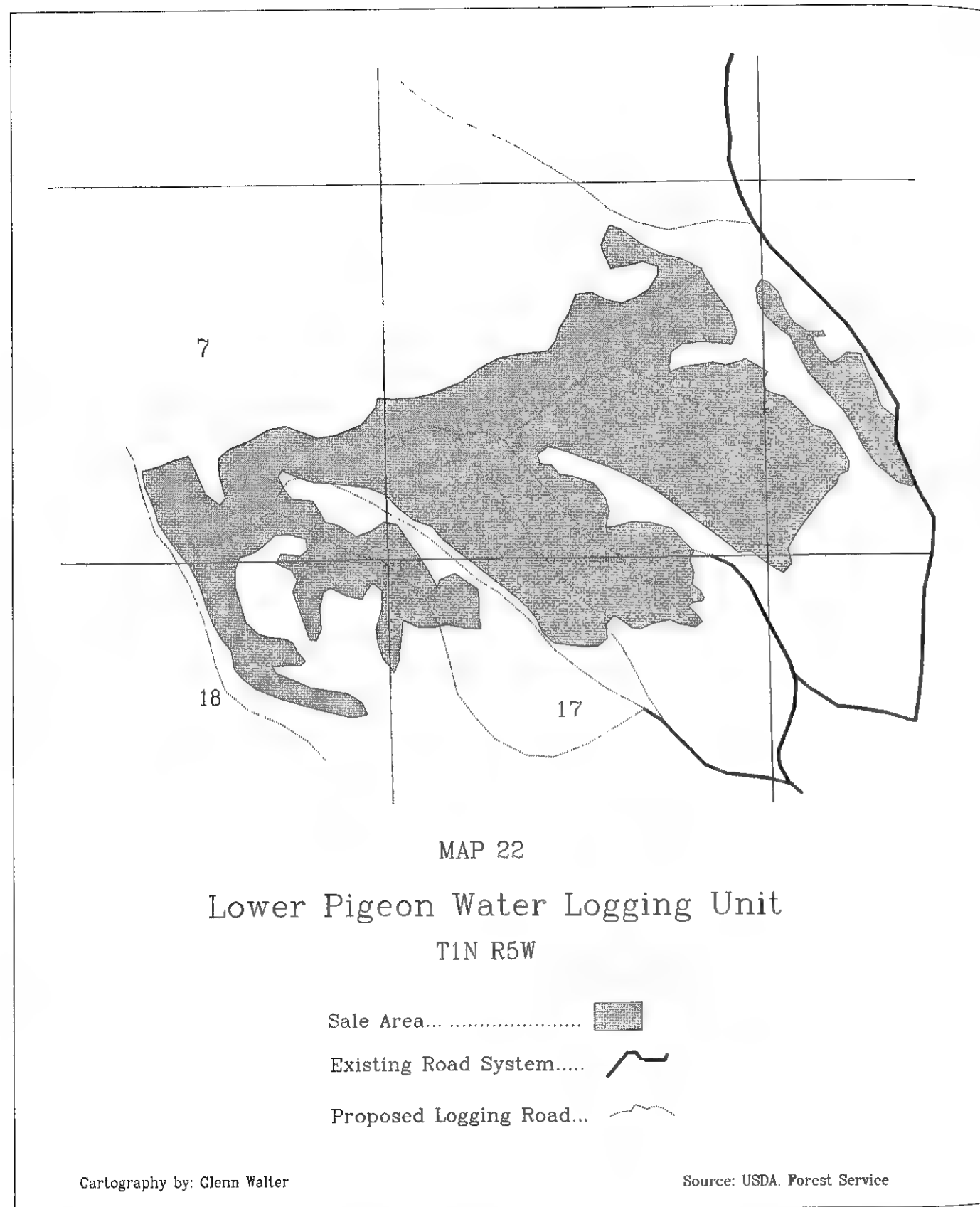
¹²³Bear Wallow Logging Unit, Timber Sale Data, Branch of Forestry, Division of Resources, Bureau of Indian Affairs, Phoenix Area Office.

¹²⁴Lower Pigeon Water Logging Unit, Timber Sale Data, Branch of Forestry, Division of Resources, Bureau of Indian Affairs, Phoenix Area Office.

¹²⁵Forest Officer's Report, Uintah Logging Unit A, Uintah and Ouray Reservation, Fort Duchesne, July 3, 1969, Uintah Logging Unit A, 339.5, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

¹²⁶Forest Officer's Report, Uintah Logging Unit A, Uintah and Ouray Reservation, Fort Duchesne, July 3, 1969, Uintah Logging Unit A, 339.5, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah; Superintendent to W. Wade Head, May 20, 1969, Uintah Logging Unit A, 339.5, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.





The inability to sell the Uintah Logging Unit A ended the reservation's era of contact logging sales. Lasting for only five years, these were the largest timber sales in the reservation's history to produce tribal revenues, provide Utes limited employment, and improve the forest. These contract sales cut the most accessible commercial timber stands and increased the need for the existing forestry staff.

5.7 Conservation Work

Roy Degler was the Uintah and Ouray forester for ten years. During that time, his primary focus was supervising five years of contract timber sales, but he also developed conservation projects when time permitted. The conservation work mainly included forest improvement activities and upgrading the reservation's fire fighting activities.

Initial forest conservation work began after the passage of the Accelerated Public Works Act in 1962. Funds from this appropriation enabled Degler to develop limited, short-term forest conservation projects with funds from the Public Works Acceleration Act. Congress passed "Public Law 87-658 [which] authorized the APW program," and in the "Supplemental Appropriations Act of 1963" Congress stipulated that "all [Bureau of Indian Affairs] projects must deal with the preservation of forests." Assistant Commissioner of Indian Affairs for Economic Development, E. Reese Fryer, wrote that "forest preservation" included the development of facilities "for the development and rehabilitation of the forest, the development of facilities necessary to assure proper use of the forests by visitors, and the development of the multiple-uses of the forest, including fish and wildlife preservation."¹²⁷

The Accelerated Public Works Program was part of the nation's economic development program. To assist depressed tribal communities and increase employment, local tribesmen preferred employment on any Bureau of Indian Affairs Accelerated Public Works Program project.¹²⁸ The Accelerated Public Works program was designed to provide unemployed workers with direct work relief.

Degler applied the Uintah and Ouray funds toward developing a reservation forestry improvement project. The forester described the need for the project, writing, "There has been no attempt in the past to improve the growing conditions of the timber." He continued, "On the contrary the cutting (and it has been considerable) has been for special products, such as high quality sawlogs, fuel wood, posts and poles, and in areas easily reached." The result of

¹²⁷E. Reese Fryer to Area Directors, Memorandum, August 15, 1963, Accelerated Public Works Plan, 339.1.23, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

¹²⁸*Ibid.*

unregulated logging was that "the entire timbered area is checkerboarded by partially cut over tracts, clean cut areas, and untouched, thick stands of young timber."¹²⁹

To achieve these ends, Degler designed a two-year forest conservation plan focusing his efforts on the commercial northern forests and the Hill Creek Extension. For the 1963 fiscal year, the forester employed tribal workers to thin 600 acres of lodgepole pine and ponderosa pine, to eradicate porcupines, to construct foot trails, to cut snags, and to spray for mountain pine beetles. All this work would occur in the northern conifer forests (See Photographic Essay 5, page 224). For the following year, 1964, Degler wanted work crews to build ten helispot landing sites, construct foot trails, and thin alpine fir in the Hill Creek Extension. Also, Degler wanted to thin timber in Dark Canyon in Timber Unit 3.¹³⁰ Unfortunately, funds did not permit him to complete his 1964 forestry improvement plans. Despite the Accelerated Public Works short life, the program improved the reservation's forests.

Though not related to conservation of the commercial conifer forests, the Uintah and Ouray Tribal Business Committee initiated a tribal Christmas tree program in the spring of 1964. The Ute Tribal Nursery Farm was located two miles south of Fort Duchesne. The main purpose of this tribal enterprise was to provide employment opportunities for tribal members. Tribal chairman Francis Wyasket was a leading supporter of the plantation. The Utah State Forester provided blue spruce planting stock in the spring of 1968. The program was officially dedicated on Arbor Day, 1968 (See Photographic Essay 6, page 229). During the ceremonies, Degler received the tribal name Lone Pine for his forestry work. This program was short-lived, however, as Superintendent Melvin L. Schwartz, with the Area Office Director's support, closed the operation several years later to save tribal funds.¹³¹

Unlike the tribal Christmas tree venture, fire fighting remained an ongoing conservation activity. Degler delegated to his forestry technician, Grover Walt Sixkiller, the responsibility of improving the reservation's fire fighting capabilities. Fortunately, Sixkiller had a strong foundation to build upon, as the reservation personnel had improved agency fire fighting abilities. Post-World War II fire suppression and fire prevention were ongoing forestry activities; reservation personnel performed commendably with limited resources. Inter-agency and inter-government cooperation was the foundation of this post-World War II reservation fire fighting program, built on the cooperative agreements signed during the war.

¹²⁹Plan to Cover Forestry Work under the Public Works Acceleration Act of 1962 on the Uintah and Ouray Reservation Accelerated Public Works Plan, Work Plan, Fort Duchesne, 339.1.23, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

¹³⁰*Ibid.*

¹³¹Roy Degler to Richmond L. Clow, November 12, 1991, Letter in Possession of T & R Inc.; *The Ute Bulletin*, May 2, 1964, p. 1, Fort Duchesne, Utah.

Reservation Range Manager Paul A. Krause prepared the first written fire plan for Uintah and Ouray in 1947, and he stressed the importance of cooperation to agency fire fighting. Bureau of Indian Affairs District forester Richard B. Millin reviewed the 1947 fire plan and observed that this was the first reservation fire plan, but it was deserving of attention for at least two reasons: "The first is the close and effective cooperation under the Utah Fire Law with numerous other Federal, State and County organizations interested in fire control." Millin added, "The second is that apparently not a single lookout tower is used or manned in this Basin by any fire-control agency. Active Cooperative Volunteer Observers supplement the regular operational forces."¹³²

This cooperative approach was essential to the success of reservation fire fighting abilities. For example, Krause reported that there were thirteen fires on the reservation in 1950, but the excellent cooperative effort by the Utah Cooperative Fire Service reduced fire danger. He added that "Our relationship with Local Forest Service officials is very pleasant and each stand ready to assist the other."¹³³

Ute tribesmen also contributed to the ongoing success of fire cooperation by fighting fires. In 1951, Krause reported, "This spring a crew of twenty Indian men was organized," as a mobile fire force and available for use by all members of the Utah Cooperative fire fighters. The Ute fighters fought the Bureau of Land Management Book Cliff fire that year.¹³⁴

Krause prepared the second reservation fire management plan in 1951 and again, cooperation with other fire fighting agencies was prominent. Phoenix Area Office Acting Forester Joe A. Wagner reviewed the 1951 plan, describing the overall plan as "very compact and well coordinated." Wagner specifically praised the inter-agency cooperation, noting, "The statement of policy stresses cooperation, which is based on all agencies that are within the Uintah Basin."¹³⁵

Communication was essential for cooperation. Reservation range manager Krause reported that "Our weakest link now is adequate communication. Radio facilities on vehicles

¹³²Richard B. Millin to Commissioner of Indian Affairs, August 21, 1947, 30131-1947-339, Uintah and Ouray, Central Classified Files, 1939-1954, RG 75, NA.

¹³³Annual Forestry and Grazing Report, pp. 3, 5, 1950, 339.3 Annual Report, Uintah and Ouray, 1949, Central Classified Files, 1927-1952, Phoenix Area Office, Forestry and Grazing Division, RG 75, Pacific Southwest Archives, Laguna Niguel, CA.

¹³⁴Annual Forestry and Grazing Report, p. 3, 1951, 339.3 Annual Report, Uintah and Ouray, 1949, Central Classified Files, 1927-1952, Phoenix Area Office, Forestry and Grazing Division, RG 75, NA, Pacific Southwest Archives, Laguna Niguel, CA.

¹³⁵Joe A. Wagner to LeRoy D. Arnold, June 15, 1951, 30131-1947-339, Uintah and Ouray, Central Classified files, 1939-1954, RG 75, NA.

of Forestry and Grazing employees are urgently needed." He added, "We have cooperation, but need better communication facilities to obtain coordination."¹³⁶

Cooperation emerged as the agency's most important fire fighting tool after the war, especially in light of the absence of equipment and personnel. The equipment problems slowly improved with federal and tribal assistance. In 1949, the reservation fire fighting staff obtained three 4 x 4 war surplus vehicles and in 1950 the agency received a 120 gallon slip-on tank for fire fighting.¹³⁷

Following these equipment additions, the reservation fire fighting program underwent few changes until 1963 when Forestry Technician Grover Walt Sixkiller joined the reservation staff. Sixkiller immediately revived the Ute fire fighting organization, which had lapsed, and organized the Ute Indian Fire Fighters. This was not a reservation-only fire fighting force, but a tribal organization created to fight fires whenever called upon. This organization provided individuals employment opportunities for the duration of the fire season.¹³⁸

The creation of a traveling reservation fire fighting unit was testimony to the changing post-war niche of forestry throughout the entire reservation population. No longer was forestry management isolated and restricted to the reservation agency staff. Fire fighting illustrated that point. Historically, fire fighting was the dominant reservation forestry activity and now it had extended beyond the reservation and had become a source of income to some tribesmen.

Other forestry conservation activities remained low on the priority scale in the reservation's forestry strategy. The low timber volume reduced the funds available for conservation work. As a result, agency personnel were often forced to rely on special congressional appropriations to receive funds for preservation work. This pattern began the day President Roosevelt severed one million forested acres from the reservation in 1905.

¹³⁶Paul A. Krause, 1951 Fire Control Plan, p. 2, Uintah and Ouray Reservation, Fort Duchesne, Utah, May 17, 1951, 30131-1947-339, Uintah and Ouray, Central Classified Files, 1939-1954, RG 75, NA.

¹³⁷Annual Forestry and Grazing Report, pp. 2-3, 1950, 339.3 Annual Report, Uintah and Ouray, 1949, Central Classified Files, 1927-1952, Phoenix Area Office, Forestry and Grazing Division, RG 75, NA, Pacific Southwest Archives, Laguna Niguel, CA.

¹³⁸Superintendent to Andrew McConkie, November 13, 1970, Forestry Chronological File, 1969-1970, 330-005, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

5.8 Conclusion

The tribal forests increased in importance during the post-war era, thus forcing the tribal community to become more active in reservation forestry decisions. Not only did the reservation government authorize greater use of the tribal forests to foster tribal employment and to provide building materials for reservation housing, the Uintah and Ouray Tribal Business Committee also created two tribal recreation areas in 1951. One recreation area was called Cedarview (Sec. 20, T 2N, R 2W) and the second was the Uintah Area (Sec. 5, T 2N and R 2W). The recreational sites had unmerchantable, small diameter trees standing on steep slopes. The creation of recreational areas illustrated the importance of fire protection to prevent the tribe from losing either recreation area.¹³⁹

Tribal internal disputes also assisted reservation forestry by forcing the Bureau of Indian Affairs to fund an inventory of reservation timber resources. The 1956 inventory provided essential data for planning future logging operations.

Despite the positive direction of post-war Uintah and Ouray forestry, the reservation's limited timber volume still restricted the tribe's forestry decisions. Overcoming that restriction tested the skills of individuals who directed Uintah and Ouray forestry planning.

¹³⁹Yargus, "A Forest Management Plan for the Uintah and Ouray Indian Reservation, Utah," pp. 25-26.

Chapter 6

The Custodial Years, 1972-1990

6.1 Introduction

The Uintah and Ouray logging contracts negotiated between 1964 and 1969 represented the high point in reservation timber sales. Following the fulfillment of these contracts, the Uintah and Ouray Reservation administration cut back reservation forestry activities and reservation forestry personnel due to the low volume of commercial timber. Two decades later, the 1986 Uintah and Ouray Forestry Evaluation Committee described the reservation's existing program: "Forest management practices have been and currently are custodial."¹

The Forest Evaluation Committee defined custodial "as emphasizing forest protection and generally preserving the Status quo." In addition, "Little emphasis is placed on managing the forest to enhance its productivity to yield a regularly scheduled timber harvest. Its management is definitely extensive rather than intensive."² Uintah and Ouray custodial forestry activities for the last two decades included the supervision of restricted timber cuts, conducting limited inventory studies, and maintaining an extensive fire protection program.

During these years, the forestry staff at the agency and area office began to express greater concern for the reservation pinyon-juniper woodlands. Professional foresters had bypassed this woodland association because it lacked commercial value. When the woodlands commercial value was determined in the late 1980s, the reservation forestry staff wisely decided to include the tribal woodlands in the Uintah and Ouray Reservation forestry program. So, instead of decreasing, the reservation forestry lands increased and so, too, did the forestry activities on the Uintah and Ouray Reservation.

¹Program Evaluation, 202-05, Uintah and Ouray Agency, January 2, 1986, p. 4, Branch of Forestry, Resources, Phoenix Area Office, Bureau of Indian Affairs, Phoenix, Arizona.

²*Ibid.*, p. 4f.

6.2 The 1970 Forest Management Plan

Bureau of Indian Affairs Administrative Forester Roy H. Degler prepared a forest management plan in 1970 designed to guide future cutting on the reservation. A forest management plan was critical in order to provide the necessary data to efficiently harvest timber.

Before writing the 1970 plan, Degler observed the tribal forests and developed several impressions. He charged that the small volume of commercial forest acreage was responsible for the forests' inability to support a greater forestry effort. Degler noted in 1966, "The comparatively small volume and the low growth rate makes a sustained yield operation economically unfeasible." In addition, the reservation timber had low forest maturation rates, thereby contributing to the inability to develop a sustained yield operation. As a result, Degler predicted that the forest growth would prohibit harvesting the accessible commercial conifers for another thirty to fifty years. Degler believed that once the contract sales were completed, tribal logging activities would revert to issuing free tribal user permits to tribesmen for fence posts, poles, and cord wood and selling limited volumes by permit to non-tribesmen.³

These issues affected the number of reservation forestry positions. Small timber volume and the forest's slow growth caused Degler to observe, "There is not enough timber to justify a full time forester and staff beyond the time necessary to cut out the virgin growth."⁴ In November, 1970, following the timber contract sales, the Bureau of Indian Affairs transferred Degler to another reservation.⁵ In 1980, the position was re-established; Robert P. Bizal was appointed forest manager in October of that year and left in February, 1981. After Bizal, the position was not re-established until 1991.⁶

Degler's last task as Administrative Forester of the Uintah and Ouray Reservation was to prepare an operating plan for the future. As a result, he drafted the third Uintah and Ouray Reservation timber study in a twenty-five-year period. The first extensive Forest Inventory Report had been prepared by Hammon, Jensen and Wallen Mapping and Forestry Service,

³Roy H. Degler, General and Statistical, Forestry on Uintah and Ouray Reservation, June 21, 1966, Miscellaneous Correspondence, 339.003, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

⁴*Ibid.*

⁵G. Walt Sixkiller, Resume of Forestry Programs from 1969 to 1972, May 15, 1972, Forestry Chronological Files, 1971-1972, 339.005, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah; Superintendent to U.S. Department of Commerce, March 9, 1971, Forestry Chronological Files, 1971-1972, 339.005, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

⁶Robert P. Bizal to Richmond L. Clow, October 21, 1991, Letter in possession of T & R Inc.

Oakland, California in 1957; it had divided tribal timber resources among tribal members. Then in 1960 forester Wayne O. Yargus prepared the first timber harvest plan. Yargus relied on data gathered by Hammon, Jensen and Wallen three years earlier to complete his study.

Degler began drafting his operating plan at the conclusion of the last timber contract. His report covered the period from January, 1970 through January, 1980. After Degler completed his "Forest Operating Plan," he submitted the document to the Uintah and Ouray Business Committee for tribal approval. The business committee endorsed Degler's proposed harvesting plan.⁷

Degler justified completion of a new Uintah and Ouray Reservation forestry plan for two reasons. First, both the Bureau of Indian Affairs and the tribe's past efforts to implement the Forest Operation Plan of 1960 had failed due to "a decline in the timber market in 1958-62 [which] caused the overall plan to fail."⁸ Second, the 1960 "timber resource management plan" only included 26,659 acres of commercial timber found on the reservation's northern boundaries adjacent to Ashley National Forest; it ignored all the other reservation commercial forests and woodlands. Degler wrote, "This omission made a revision of the 1960 plan necessary." To correct this oversight, Degler included in his 1970 operational plan "176,565 acres of the more valuable trees, not to mention 283,159 acres of pinon-juniper."⁹

In preparing this more inclusive operating plan, Degler maintained tribal timber Units 1, 2, and 3 which Hammon, Jensen and Wallen had organized in their 1957 inventory of Uintah and Ouray timber resources. Degler simply updated these three units. He then added three additional tribal timber units to his operational plan (See Map 23). "Unit 4 covers the west half of the reservation but does not duplicate any acreage included in Units 1, 2 and 3; Unit 5 covers the eastern half [of the reservation] and extends south to approximately the Second Standard Parallel South."¹⁰

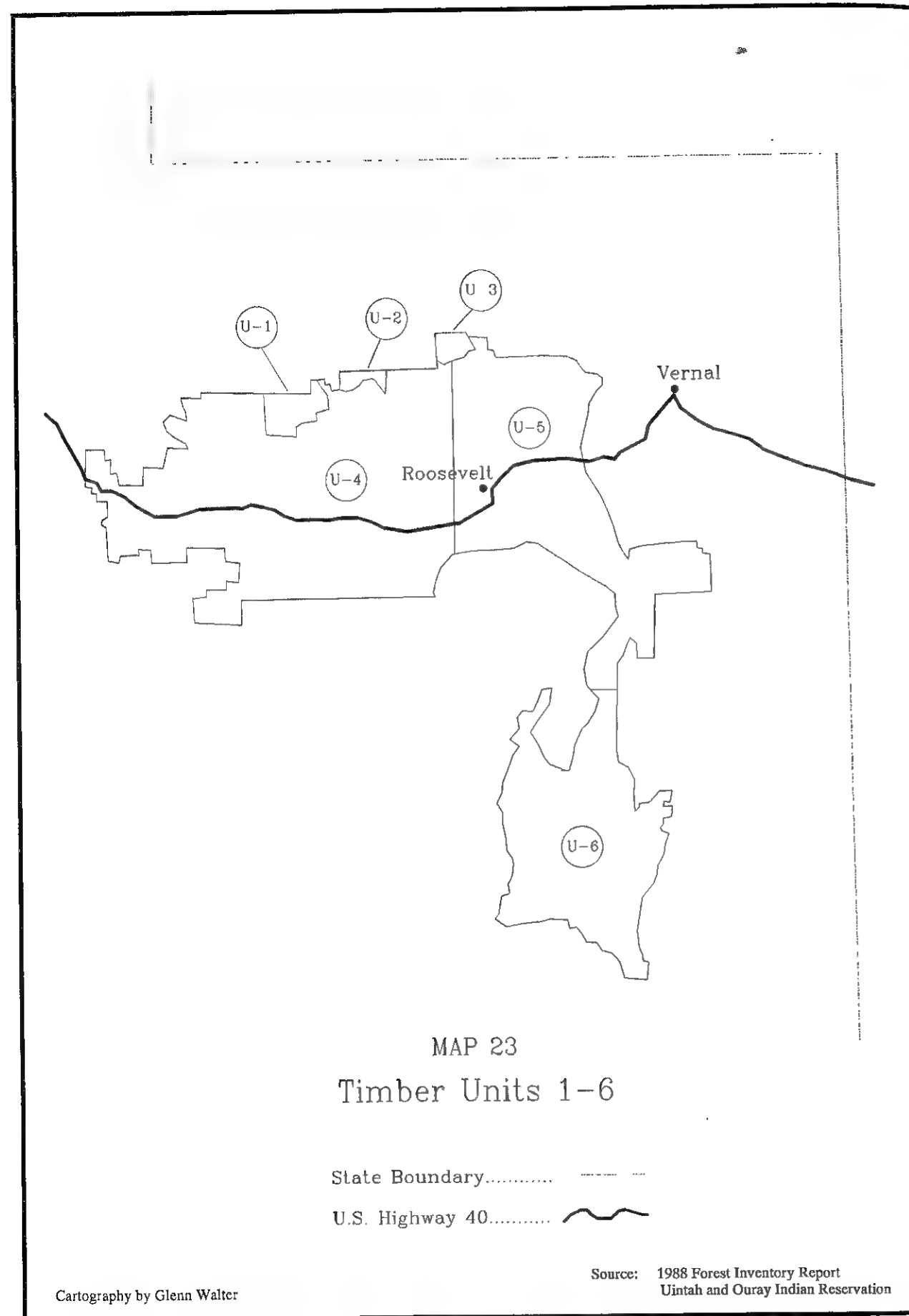
Unit 5 was unique when compared to the other reservation timber units; the reservation's cottonwood trees were found here. There was high local demand for cottonwood to be used for mine timbers. And it was possible to log this species throughout the year. Degler recommended liquidating all the cottonwood in this area because cottonwood habitat was being destroyed as dams were built on the Duchesne River. The fertile floodplains which had historically provided

⁷Roy H. Degler, "Forest Operating Plan, Uintah and Ouray Indian Reservation, Utah," p. I-B, February 19, 1971, Branch of Forestry, Phoenix Area Office, Bureau of Indian Affairs, Phoenix, Arizona.

⁸*Ibid.*, p. II-D-1.

⁹*Ibid.*, p. I-D.

¹⁰*Ibid.*, p. II-A-1.



rich, moist germination beds for cottonwoods disappeared when the river was caught behind reservoirs.¹¹

Last, Degler created "Unit 6 [which] is the Hill Creek extension but does not include any acreage on Willow Creek or Bitter Creek."¹² These areas were excluded because the tribe placed part of the Hill Creek region in tribal wilderness status in the early 1950s.¹³ In addition, Hill Creek possessed rugged terrain and had been stocked recently with mountain sheep. Taken together, these circumstances limited this unit's commercial timber value.¹⁴

Degler also addressed rehabilitating the recently logged lands. He recommended that the tribe establish a small budget to re-seed "approximately 100 acres a year." Degler believed that seeding complemented his limited timber harvesting operation. He described seeding, planting and timber stand improvement work as being suited for "emergency relief work," because of the limited forestry revenues.¹⁵

To complement an ongoing limited seeding program, Degler emphasized the continual need to control insects and weeds. He urged the tribe and the Bureau of Indian Affairs to continue to eradicate the mountain pine beetle (*Dendroctonus ponderosae*). At the time Degler prepared his report, there was a severe infestation of mountain pine beetle at Cedarview Reservoir. Degler commended the forestry personnel who had worked on mountain pine beetle infestations throughout the reservation conifers, noting that it "has been an annual job for the past five years." Degler also reported mistletoe growing in the Douglas-fir and that cutting was required to eliminate the parasite effectively.¹⁶

Because recent timber data were not available, Degler used aerial photos, maps, and the Hammon, Jensen and Wallen inventory to complete his operational plan. Based on his conservative calculations, Degler located a total of 102,856 acres of commercial timber lands on Units 1-6, from a total of 1,002,035 acres of land that comprised Units 1-6.¹⁷ The scarce and scattered location of commercial timber found within these units forced Degler to restrict

¹¹*Ibid.*, p. III-A-2-1.

¹²*Ibid.*, p. II-A-1.

¹³*Ibid.*, p. III-A-3-1.

¹⁴*Ibid.*, p. III-B-2-1.

¹⁵*Ibid.*, p. III-B-1-1.

¹⁶*Ibid.*, p. III-B-1-1.

¹⁷*Ibid.*, p. II-A-4.

reservation logging to only 15 million board feet over the next ten years, with a maximum annual cut limited to 3 million board feet.¹⁸

Even though Degler described past logging operations as "extremely casual," 15 million board feet had been logged on the Uintah and Ouray Reservation from 1964 through 1969 under his supervision. The forester wanted to duplicate that past decade's logging record over the next decade.¹⁹

The reservation traditionally produced a low annual harvest. That reality dictated that both forest development (thinning and forestation) costs and forest construction (roads and improvement) costs would remain minimal for these activities. To maximize every dollar spent on the forested lands, Degler recommended that future roads should be built at contractor expense. In addition, he suggested that no allowances for stumpage should be provided for this road construction.²⁰

In keeping with his low cost approach to Uintah and Ouray timber harvesting, forest development, and construction projects, Degler recommended that future timber sales be conducted by permit. He believed that the permit system was more feasible than contract bidding because of the scarcity of timber and the limited local market that existed for the tribe's sawtimber. Even though ponderosa pine comprised the bulk of the previous contract sales, permit sales included all timber species. Lodgepole pine, for example, was in steady demand for corral poles and fence posts. Cottonwood would continue to sell on a permit basis for mine timbers, and salvage cuts would continue to sell after forest fires. Collectively, these small, local harvests were ideally suited for permit sales.²¹

After completing his forestry plan Degler submitted the report to the Uintah and Ouray Business Council for approval. By resolution, the tribal council accepted Degler's 1970 forest operating plan. Despite tribal and Bureau of Indian Affairs acceptance, though, Degler's proposed forestry program suffered from the lack of reliable forestry growth data. Like Yargus, Degler depended on data generated by the 1957 forestry inventory. That limitation hindered the forester from preparing a more accurate forestry plan.

¹⁸*Ibid.*, p. II-C-1.

¹⁹*Ibid.*, p. II-D-1.

²⁰*Ibid.*, p. III-B-2-1.

²¹*Ibid.*, p. III-B-4-1.

6.3 Tribal Logging

The Uintah and Ouray Tribal Business Committee returned to a conservative cutting policy based on permits after the 1960s contract sales. The tribe issued both sale and free use timber permits. Outsiders purchased their permits and tribesmen obtained free use permits. Collectively, the tribe's limited timber resources and subsequent lack of dependence on timber sales insured the continued success of the permit system. For example, the 1980-1982 lumber recession nearly stopped harvesting on the Uintah and Ouray Reservation without any detrimental results.²²

These permit sales were important to the tribe and to the local Uinta Basin economy. At the beginning of each calendar year the Uintah and Ouray Business Committee issued an "Annual Policy Statement [for the] Cutting of Timber Under Paid or Free Use Permits, Uintah and Ouray Agency." The policy statement for 1988 stated that "the limited timber development economy of the Uintah Basin, the distance to any major market, and the competition with the U.S. Forest Service for the services of relatively few timber operators make the use of timber cutting permits important at the Uintah and Ouray Agency."²³

The tribe's decision to authorize restrained logging "by permit, not formal timber sale contract," created small annual cuts. The business council confirmed these sales by tribal ordinance. The tribe also established prices by tribal ordinance for the various species. This was done early in the calendar year and all potential purchasers knew the prices before requesting a permit.²⁴

The tribe employed "permit form 5-5331 approved by the Secretary" either to sell their timber or to authorize tribesmen free access to timber. With these permits, the tribe restricted logging along roads and recreational areas. As owner of the timber, the tribe authorized free tribal harvesting of various timber products while charging outsiders local market rates.²⁵

²²Program Evaluation, 202-05, Uintah and Ouray Agency, January 2, 1986, pp. 4-5, Branch of Forestry, Resources, Phoenix Area Office, Bureau of Indian Affairs, Phoenix, Arizona.

²³Annual Policy Statement, Cutting of Timber Under Paid or Free Use Permits, Uintah and Ouray Agency, Calendar Year 1988, "Timber Harvesting, Forest Product Policy, 102-01a (1), Uintah and Ouray - FY88, Branch of Forestry, Phoenix Area Office, Bureau of Indian Affairs, Phoenix, Arizona.

²⁴Program Evaluation, 202-05, Uintah and Ouray Agency, January 2, 1986, pp. 4-5, Branch of Forestry, Resources, Phoenix Area Office, Bureau of Indian Affairs, Phoenix, Arizona.

²⁵Annual Policy Statement, Cutting of Timber Under Paid or Free Use Permits, Uintah and Ouray Agency, Calendar Year 1988, "Timber Harvesting, Forest Product Policy, 102-01a (1), Uintah and Ouray - FY88, Branch of Forestry, Phoenix Area Office, Bureau of Indian Affairs, Phoenix, Arizona.

The tribe permitted the cutting of a wide array of timber products under either paid or free use permits. These wood products included landscaping trees, lodgepole pine poles (200 free poles over twelve months to tribal members for domestic use), cedar posts (200 free posts to tribal members for domestic use), Christmas trees (\$3 per tree for commercial use, free for tribal domestic use), house logs (150 free logs per tribal permit), and free cutting for ceremonial purposes. Sawtimber prices ranged from \$44 MBM for ponderosa pine to \$21 for Douglas-fir; "dead, diseased, insect-infested, or over mature trees" were sold at lower rates.²⁶

In reality the tribal logging operations were even more conservative than the policy statement. Despite a statement that sanctioned harvesting mature and green timber, the tribe adopted "an unwritten, though accepted, policy that the tribe discourages harvesting green timber and does not want to manage the forest for commercial timber production."²⁷ As a result, Uintah and Ouray timber harvests, for the most part, were "limited to salvaging dead trees and high risk green trees associated with pockets of bug kill."²⁸ For example, logging was confined to areas infested with mountain pine beetle, which had spread south from the Ashley National Forest.²⁹ Using this approach, cutting was done at a rate equal to the infestation; such a method has very little to do with the forest economy.³⁰

The Uintah and Ouray permit program was and remains easy to administer. This arrangement also eliminated both competitive bidding and bonding concerns. All purchasers paid for the tribal timber products in cash, and an agency forestry employee scaled the timber either at the agency or at the point of delivery. Under this system, where accessible infested trees were cut, the operating costs were low because there was no road maintenance, little slash disposal, and "no timber cruises," or "environmental assessments."³¹

On the other hand, the Uintah and Ouray permit system prohibited competitive bidding, therefore the local reservation Bureau of Indian Affairs personnel were forced to determine the local market prices. Often the forestry personnel reached market prices based on intuition, coupled with local United States Forest Service product rates, and then provided the tribal council with the year's market prices for various species. This is a system that requires purchasers to establish good relations with the Bureau of Indian Affairs. In the best situations,

²⁶Ibid.

²⁷Program Evaluation, 202-05, Uintah and Ouray Agency, January 2, 1986, p. 4, Branch of Forestry, Resources, Phoenix Area Office, Bureau of Indian Affairs, Phoenix, Arizona.

²⁸Ibid., p. 5.

²⁹Ibid., p. 4.

³⁰Ibid., p. 6.

³¹Ibid., p. 5.

potential buyers develop a working relationship with the reservation forest technician before purchasing the timber. Despite the openness of this system, the Uintah and Ouray Forestry Evaluation Committee reported in 1986 that "it appears that the tribe is getting a premium price for their products."³² But the limited harvest which was the result of the Uintah and Ouray Business Committee's permit harvesting system prohibited maximum timber revenues for the tribe.

6.4 Forest Personnel and Reservation Conservation Work

During these years, the tribe's timber revenues dropped. Yet despite the decreased logging income, the Uintah and Ouray Tribal Business Committee maintained a fiscal commitment to a conservative logging program. The tribe accomplished this by increasing the Ute's monetary contribution to the reservation forestry program. Likewise, the Bureau of Indian Affairs agency forestry staff circumvented both personnel and funding limitations by advocating cooperative forestry conservation and technical data gathering ventures with outside agencies whenever possible.

Reservation forestry budgets began to drop when the contract harvesting ended. In fiscal year 1969, the Bureau of Indian Affairs Uintah and Ouray Reservation forestry budget was \$25,375. During this same time, the Uintah and Ouray Reservation sold nearly two million board feet, yet contributed only \$500 to reservation forestry operations. Reservation logging revenues dropped the following year, while the Bureau of Indian Affairs reservation budget rose to \$30,000. Then the Bureau of Indian Affairs reduced its Uintah and Ouray forestry budget \$10,000 in fiscal year 1971. On the other hand, the Uintah and Ouray Reservation increased the tribal contribution to reservation forestry operations \$4,000 that same year. The tribe increased its forestry commitment when tribal timber revenues decreased.³³

Forestry personnel reductions accompanied the Bureau of Indian Affairs forestry budget reductions. Administrative Forester Roy H. Degler left Uintah and Ouray Reservation in 1970. After Degler's departure, Forestry Technician Grover Walt Sixkiller assumed leadership of the reservation forestry program. In 1972, the Uintah and Ouray forestry staff consisted of "One Forestry Technician, one tribal fire control aide and one tribal forestry aide."³⁴

³²Ibid.

³³Grover Walt Sixkiller, Resume of Forestry Programs from 1969 to 1972, May 15, 1972, Forestry Chronological Files, 1971-1972, 339-005, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

³⁴Ibid.; Superintendent to U.S. Department of Commerce, March 9, 1971, Forestry Chronological Files, 1971-1972, 339.005, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

Sixkiller opposed any further reductions in Bureau of Indian Affairs forestry personnel and budgets. He wrote, "In the future the Branch of Forestry is planning to get back up to the level of the year 1970 budgetwise [sic]."³⁵ The Uintah and Ouray tribal leadership continued to assist the reservation forestry program by contributing tribal funds to increase forestry personnel. By 1974, the tribe was providing enough "funds for one full-time and one part-time forestry technician position aiding in timber management elements."³⁶

Even with increased tribal financial contributions, the reservation forestry program fell short of funding all the activities associated with forestry management. Therefore, when any opportunity arose, the Uintah and Ouray forestry staff sought outside technical assistance to obtain data pertaining to the reservation commercial forests and woodlands. In 1975, the forestry staff had the opportunity to employ Utah state foresters to conduct a Continuous Forest Inventory (CFI). A CFI is the "Installation and remeasurement of permanent sample plots in timber stands to measure growth, volume, and trends."³⁷ Both Yargus and Degler should have possessed more accurate timber growth data when they prepared their harvest management plans.

When Utah state forestry personnel began to work near the reservation conducting a statewide forest inventory, the opportunity to obtain valuable reservation timber data was available. The Forestry and Fire Control, Utah State Forester's Office initiated a "statewide forest resource inventory" in 1975. Forest Land Use Planner W. Anthony Dietz informed Uintah and Ouray Superintendent William Streitz that "Several of our random sample points have fallen on the southern extension of the Uintah and Ouray Indian Reservation in Grand County." To complete their initial work, Dietz asked Streitz for permission to enter the reservation to conduct measurements, including the recording of "tree height, age, diameter, basal area, forest type, condition class, fuel type, etc." Dietz assured the Uintah and Ouray Superintendent that all "Final forest resource information will be made available to the Uintah and Ouray Indian Reservation upon completion."³⁸

The Uintah and Ouray forestry staff took this opportunity to request state assistance in conducting a Continuous Forest Inventory on the reservation. Forestry Technician G. Walt Sixkiller initiated preliminary discussions with David G. Behrens, Area Forester, State of Utah.

³⁵Ibid.

³⁶Grover Walt Sixkiller to John Saunders, July 11, 1974, General and Statistical Misc. Correspondence, 339.003, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

³⁷Timothy E. Moriarty, Uintah and Ouray Indian Reservation Forestry Inventory Analysis, p. A-3, U.S. Department of the Interior, Bureau of Indian Affairs, Branch of Forest Resources Planning, Portland, Oregon, 1985.

³⁸W. Anthony Dietz to William Streitz, September 2, 1975, General and Statistical Misc. Correspondence, 339.003, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

Sixkiller inquired as to the state's willingness to enter into a reservation project and to discuss the state's inventory procedures.³⁹

The Uintah and Ouray forestry staff and the Phoenix Area Office forestry staff both wanted to examine data that the Continuous Forest Inventory would provide. The lack of technical data was an inherent weakness of Forester Wayne O. Yargus's 1960 "Forest Management Plan for the Uintah and Ouray Reservation." Aware of this technical information weakness, Yargus wrote that, "The lack of specific growth data and the need for such information is recognized by the planner."⁴⁰

Ten years later, Forester Roy Degler's 1970 forest operating plan also suffered from an absence of technical documentation. That void forced him to construct the plan without current growth forestry data. Degler's "Forest Operating Plan" was intended "to update the management plan, to provide for an accretion-depletion schedule, and to provide for continuous cutting in order to capture mortality." Degler's report "served a useful purpose," but the forestry staff at the Phoenix Area Office noted that his report suffered because "the basis upon which it was developed is technically weak." The Degler report provided no "specific growth data"; therefore, the forestry staff had no "confidence in the allowable cut of 1,440 MBM provided under the 1970 Operating Plan."⁴¹

Because both the 1960 management plan and the 1970 Uintah and Ouray forestry management plan suffered from the same inherent weakness, Forestry Technician Sixkiller and Phoenix Area Office Forester Kent Litton initiated preliminary discussions with David Behrens and Ralph Miles of the State Forester's Office in Utah. Both Sixkiller and Litton encouraged the state to participate "in a timber inventory and growth study on the Uintah and Ouray Reservation."⁴²

The Bureau of Indian Affairs decided to award a Continuous Forest Inventory contract to the State of Utah. Three factors were important in this decision: first, the State Forester's Office had CFI experience as they had recently completed a similar study for the United States Forest Service at Ogden, Utah; second, the state indicated a willingness "to hire Ute Tribal

³⁹Grover W. Sixkiller to David G. Behrens, October 30, 1975, General and Statistical Misc. Correspondence, 339.003, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

⁴⁰George S. Kephart, Chief, Branch of Forestry to Commissioner of Indian Affairs, Memorandum of transmittal for Wayne O. Yargus "Forest Management Plan for the Uintah and Ouray Indian Reservation, Utah," 1960, January 17, 1961, Branch of Forestry, Bureau of Indian Affairs, Phoenix Area Office.

⁴¹Charles D. Worthman to Paul Sjoblom, November 5, 1975, General and Statistical Misc. Correspondence, 339.003, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

⁴²Ibid.

Members as inventory crew members"; and third, the state was already conducting a Continuous Forest Inventory near the reservation.⁴³

Based on these advantageous factors, the Bureau of Indian Affairs entered into a contract with the state of Utah in 1977 to conduct a Continuous Forest Inventory on the Uintah and Ouray Reservation.⁴⁴ The Utah State Forester's Office placed one hundred eighty-four plots in the commercial timber units 1, 2, and 3. The goal "was to locate and map areas in need of reforestation, timber stand improvement, and recommend treatments." The data obtained "from these plots was intended to describe growth trends on the units and to accurately predict growth response of stands to thinning."⁴⁵

The State Forester's Office began work in 1978 and "performed the CFI field data collection as per Bureau of Indian Affairs procedures available in 1978." Completion and analysis of the Uintah and Ouray Continuous Forest Inventory "stalled through the years for many reasons, mainly low resource priority and lack of funds." Despite problems, the project eventually was to "provide the tribe with essential information with which to make planning decisions."⁴⁶

The Utah State Forestry and Fire Control Division completed their preliminary study in 1978 and printed their initial findings in the "Forest Development Plan for Ute-Ouray Indian Reservation." In conducting the inventory, the researchers decided "to locate and map areas in need of reforestation, timber stand improvement, and recommend treatment," in Unit 1, Unit 2, and Unit 3. After selecting 184 sample plots, the Utah foresters planned to study forest growth response to thinning, but due to funding shortages, few sample plots were thinned and re-examined to determine growth. Still, the Utah study "provided a good quantitative description of the forest examined."⁴⁷

⁴³Gary R. Gregory to Superintendent, Uintah and Ouray, Memorandum, January 13, 1977, 1107-01 Forest Inventories, TRD 8-5, Continuous Forest Inventory, Uintah and Ouray, Branch of Forestry, Bureau of Indian Affairs, Phoenix Area Office.

⁴⁴J. Bart Graves, Forestry, "Analysis of Corrected Uintah & Ouray Field CFI Data," November 2, 1984, 1107-01 Forestry Inventory, TRD 8-5, Continuous Forest Inventory, Uintah and Ouray, Branch of Forestry, Bureau of Indian Affairs, Phoenix Area Office.

⁴⁵Robert P. Bizal, "Uintah and Ouray Indian Reservation 1988 Forest Inventory Analysis," p. I-16, November 1990, U. S. Department of the Interior, Bureau of Indian Affairs, Phoenix Area Office.

⁴⁶J. Bart Graves, Forestry, "Analysis of Corrected Uintah & Ouray Field CFI Data," November 2, 1984, 1107-01 Forestry Inventory, TRD 8-5, Continuous Forest Inventory, Uintah and Ouray, Branch of Forestry, Bureau of Indian Affairs, Phoenix Area Office.

⁴⁷Moriarty, Uintah and Ouray Indian Reservation Forest Inventory Analysis, p. I-20.

Despite Continuous Forest Inventory problems, the study also provided positive forest information. The Utah 1977 CFI remains as "the first permanent plot inventory of the Uintah and Ouray Reservation." In addition, the 1977 CFI data and subsequent "inventory analysis being developed is the first attempt at a practical and field oriented approach to forest regulation in an area where timber values are low and markets are limited."⁴⁸

The Utah state forestry crews completed their field corrections in the fall of 1984. Then, the Phoenix Area Office requested the Branch of Forest Resources Planning (BOFRP), Bureau of Indian Affairs, Portland, Oregon, to complete the Uintah and Ouray data analysis. BOFRP Forester Timothy Moriarty compiled the data, but cautioned, "Because field data was now approximately 7 years old," the figures should be viewed with caution.⁴⁹ Moriarty advised, "Any future management decisions based on this inventory analysis or 1976 Uintah-Ouray CFI Data Runs should be conservative due to the age of inventory data."⁵⁰

Moriarty calculated, and upon completion of his data review, modified downward Degler's previous allowable cut. The BOFRP researcher claimed, "The net allowable cut developed for the ponderosa pine timber type is 334,000 board feet per year [and] represents a sustainable cut for the 40 year adjustment period."⁵¹ Despite problems, this "was the first permanent plot inventory of the Uintah and Ouray Reservation." In 1990, Phoenix Area Office Forester Robert P. Bizal praised the 1977 CFI because "The [field] inventory analysis developed was the first attempt at a practical and field-oriented approach to forest regulation in an area where timber values are low and markets are limited."⁵²

The Continuous Forest Inventory illustrated the historical pattern of custodial forestry at Uintah and Ouray. Unless low cost forestry projects were developed, either with other agencies or within the reservation, forestry staff had limited options. Given that knowledge, Forestry Technician Grover Walt Sixkiller instituted a Timber Stand Improvement plan in 1979 attempting to enhance reservation conifer forests. Outside help once again enabled Sixkiller to prepare the Timber Stand Improvement because Congress "authorized an increase in employment ceilings and provided for add on funds for Fiscal Year 1979 to be utilized directly in the Forestry Program." Sixkiller intended the Timber Stand Improvement "to improve the forest land base and to realize from forest resources the highest economic and social services for the Indian

⁴⁸Ibid.

⁴⁹Ibid., p. I-16.

⁵⁰Ibid., Preface.

⁵¹Ibid., p. III-23.

⁵²Robert P. Bizal, "Uintah and Ouray Indian Reservation 1988 Forest Inventory Analysis," p. I-16, November 1990, U. S. Department of the Interior, Bureau of Indian Affairs, Phoenix Area Office.

people as a sustained basis." Because of the direct benefits to the forest, Sixkiller planned to thin commercial timber stands to increase "timber growth and quality" and reduce "the risk of fire and pest losses."⁵³

Sixkiller proposed that a four-member crew eliminate dwarf mistletoe-infected trees and remove poor trees and porcupine-damaged trees.⁵⁴ Sixkiller selected timber stands for improvement based on "site index, age, density, and accessibility." Of all the criteria, accessibility was often the overriding factor; inaccessibility was directly related to cost, and costs were usually the primary concern for the forestry staff when planning conservation work (See Photographic Essay 7, page 231).⁵⁵

The Timber Stand Improvement project provided indirect advantageous activities. Sixkiller wrote, "Benefits coming from this project are difficult to quantify, but never the less important." He added, "They include increased employment, reduced risk of fire and pest losses, and enhanced forest value for use other than timber production." Sixkiller added, "Quantifiable benefits include wages paid, the value of products thinned from the stand, and the increase in growth and quality of the remaining trees."⁵⁶

The Timber Stand Improvement project was an important custodial activity and ended in 1979. This conservation project symbolized the limited extent of forestry activities at Uintah and Ouray, where few funds existed for forestry projects. Additionally, it demonstrated the importance of forestry activities in providing local tribesmen with limited employment in forestry occupations.

Prescribed burning was an inexpensive management activity and, therefore, was well suited to Uintah and Ouray fiscal limitations. On low cost prescribed burns where time, money, and labor were minimal, the reservation forestry staff conducted their own projects. Working within those limitations, the Uintah and Ouray forestry staff developed a prescribed burn program in the spring of 1979. Fire ecologists advocate the necessary and important role of fire to any ecosystem. As a result, foresters have begun to apply prescribed burning in forest management. A prescribed burn "is the skillful application of fire to fuels under favorable

⁵³Grover Walter Sixkiller, Timber Stand Improvement Plan, TRD 8-2, 4.0 Objectives, 1979, Forest Development Plans - Uintah and Ouray, Branch of Forestry, Bureau of Indian Affairs, Phoenix Area Office.

⁵⁴*Ibid.*, 5.6 Thinning Methods.

⁵⁵*Ibid.*, 5.0 Discussion.

⁵⁶*Ibid.*, 6.0 Cost Benefits.

conditions of weather, fuel moisture, and soil moisture that will allow confinement of the fire to a predetermined area."⁵⁷

The reservation forestry staff prepared prescribed burns for Duchesne River and Wolf Flats in the spring of 1979. First the foresters planned to burn 740 acres along the Duchesne River five miles southeast of Randlett. The objectives were to increase the number of desirable plants while reducing the number of undesirable plants and shrubs. The burn would also increase plant diversity and improve animal habitat. At the same time, the prescribed burn would reduce the risk of future man-set fires by destroying potential fuel.⁵⁸ The second burn covered 525 acres at Wolf Flats in the southern Uintah lands. This burn was intended to release soil moisture and nutrients, to increase forage for livestock and wildlife, and to increase plant diversification.⁵⁹

Forest conservation work decreased following the Timber Stand Improvement and prescribed burning. The reservation forestry staff was further reduced. Forestry Technician Grover Sixkiller left the reservation and Robert Reyos replaced Sixkiller. Reyos transferred to Western Nevada Agency in 1990. Except for Bizal's brief tenure as forester from October 1980, to February 1981, Reyos was in charge of Uintah and Ouray forestry when Sixkiller left. Reyos remained in charge until he transferred to Western Nevada Agency. While under Reyos, the forestry program proceeded in a custodial mode, with emphasis on fire management and harvesting mountain pine beetle mortality under permit sales.

6.5 Fire Protection

Unlike the sporadic forest improvement and forest inventory projects, fire prevention and fire suppression were ongoing forestry activities. The reservation fire fighting force was dependent upon cooperation between state, federal, and local fire fighting agencies. The previous signing of strong cooperative agreements made fighting reservation fire an easier task. Because of relatively small acreage, the inaccessible tribal commercial forests were often considered to be in less danger of fire. On the other hand, the extensive pinyon-juniper and grassland-sagebrush associations made the entire reservation vulnerable to periodic fires often started by lightning.

On July 10, 1978, lightning started the Bear Wallow Fire in the northern, rugged, conifer stands. A United States Forest Service fire patrol plane spotted the fire burning on the boundary

⁵⁷Prescribed Burn Plan for Wolf Flat, Uintah and Ouray Reservation, Maps of Prescribed Burns, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

⁵⁸Duchesne River Controlled Burn, Maps of Prescribed Burns, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

⁵⁹Analysis of Wolf Flats Prescribed Burn, Maps of Prescribed Burns, Branch of Forestry, Bureau of Indian Affairs, Fort Duchesne, Utah.

between the Ashley National Forest and the reservation, and reported the fire location to the Uintah and Ouray Reservation. Walt Sixkiller was the "Initial Attack Fire Boss" and the cooperative agreements made it possible to attack the blaze as a single unit. Once the fire control effort was organized Ken Butler became the Fire Boss. The initial attack mounted by the agency was unsuccessful in containing the blaze. That failure forced the Uintah and Ouray Reservation to request assistance from the "Fort Apache overhead team."⁶⁰

The arrival of outside assistance permitted another assault on the Bear Wallow Fire. Because the terrain was rugged and steep, fire fighters decided to permit the fire to burn itself out. Eventually, human muscles and metal machines built a fire line on the fire's north boundary. The fire plan succeeded and the blaze was controlled "at midnight July 15, 1978." The Bear Wallow Fire burned 845 acres and required 600 fire fighters. The Fort Apache team directed the fire after the initial attack. The all women Fort Apache Crew #6 fire fighting unit was honored as "among the top contenders for the highest rating of the 16 organized crews on the Bear Wallow Fire."⁶¹

The Bear Wallow Fire brought the Bureau of Reclamation into the fire suppression effort. The Bureau of Reclamation supplied vehicles and drivers, even though the agency claimed they did not have a cooperative agreement with the Bureau of Indian Affairs. (It must be remembered that the Bureau of Reclamation was a signatory party to the 1945 Cooperative Agreement.) After the fire, Uintah and Ouray Superintendent Pat Ragsdale praised the Bureau of Reclamation. He stated, "This is the first time Bureau of Reclamation has had men or equipment on a fire. . . . They were extremely valuable."⁶²

In addition, the Utah National Guard supplied large trucks to transport fire fighters and supplies to the fire site. Good communications between the agencies provided for a strong working relationship between the inter-agency crews. The rugged terrain helped to contain the fire while the high winds were a constant problem, threatening to spread the fire.⁶³

⁶⁰Strategic Fire Plan, Bear Wallow Fire, Uintah and Ouray Agency, 1107-01, Forest Protection, Branch of Forestry, Bureau of Indian Affairs, Phoenix Area Office; Bear Wallow Fire - Uintah and Ouray Reservation, Bear Wallow Fire, Uintah and Ouray Agency, 1107-01 Forest Protection, Branch of Forestry, Bureau of Indian Affairs, Phoenix Area Office.

⁶¹Strategic Fire Plan, Bear Wallow Fire, Uintah and Ouray Agency, 1107-01, Forest Protection, Branch of Forestry, Bureau of Indian Affairs, Phoenix Area Office; Bear Wallow Fire - Uintah and Ouray Reservation, Bear Wallow Fire, Uintah and Ouray Agency, 1107-01 Forest Protection, Branch of Forestry, Bureau of Indian Affairs, Phoenix Area Office.

⁶²Bear Wallow Fire, Debriefing Session, Bottle Hollow Resort, Minutes, July 17, 1978, p. 8, 1107-01, Forest Protection, Branch of Forestry, Bureau of Indian Affairs, Phoenix Area Office.

⁶³*Ibid.*, pp. 1-7.

The Bear Wallow Fire, though successfully contained without either loss of life or serious injury, demonstrated several problems with the reservation's fire attack procedures. The initial reservation fire assault violated several basic "fire fighting principles" including: attacking "a fast moving fire with a direct frontal attack"; in addition, the initial assault crew "had forces broken up all around [the] fire"; and was too slow getting to the fire, and "Too slow" in building a "control line."⁶⁴

These problems stemmed from the fire's severity and the all out effort that the initial fire assault team placed on trying to quickly contain the blaze. Upon examining the procedural glitches, the Uintah and Ouray forestry staff began improving their fire fighting technique.

The reservation's high elevation and summer weather patterns produce frequent and often violent electric storms. As a result, lightning causes many fires in Uinta Basin. An electrical storm started the Blacktail Fire on June 22, 1976, burning four acres. Three days later, on June 25, 1976, the Sand Wash Fire ignited and then blew up when the winds crested, fanning the fire and burning an additional 400 acres.⁶⁵

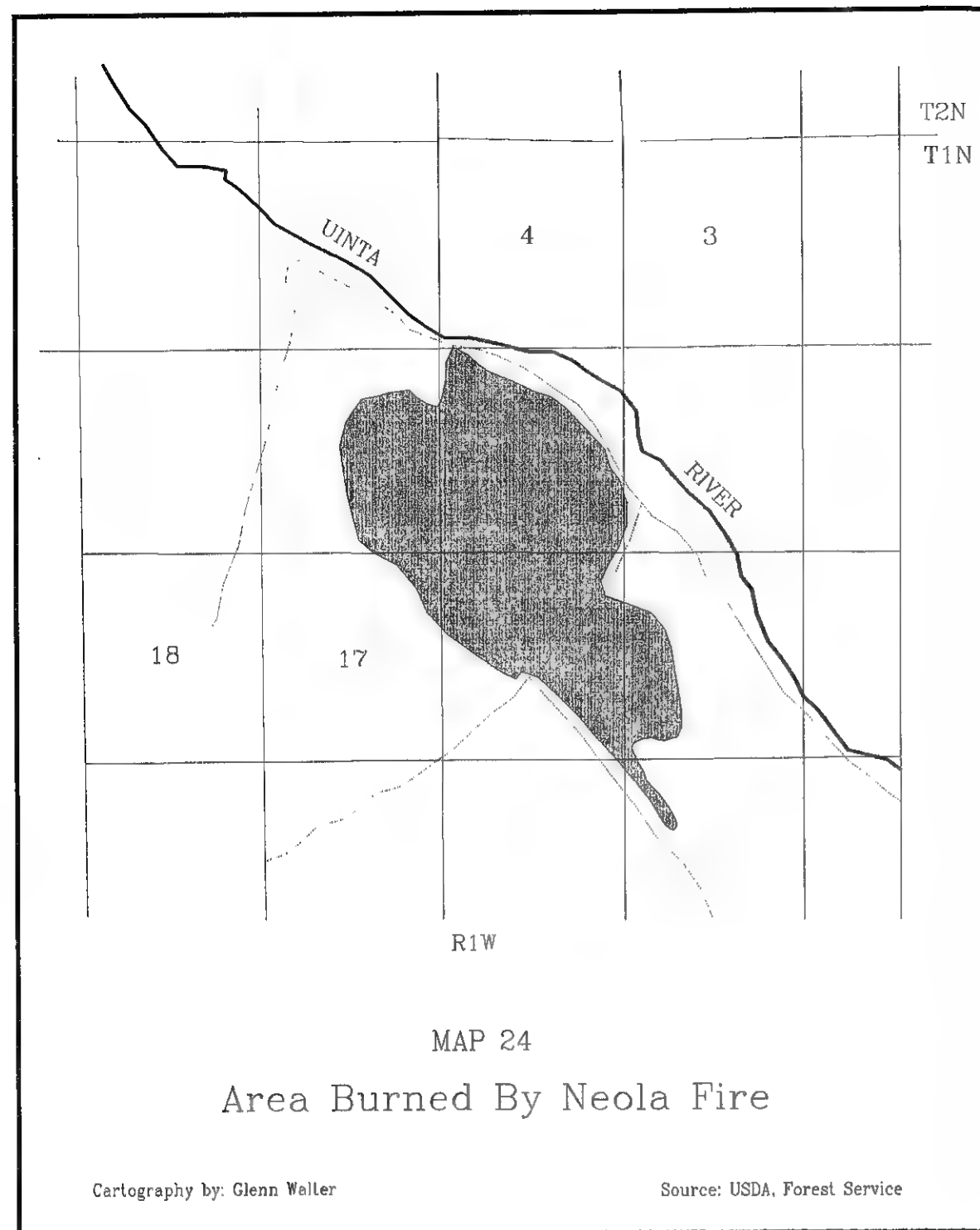
Lightning started the Neola Fire on August 9, 1983, which was the most severe fire after the Bear Wallow Fire. The fire burned 986 acres of non-commercial pinyon-juniper, sagebrush, and grassland along the upper Uinta River (See Map 24). Typical of the reservation fire season, high winds, ranging from 10 to 25 miles per hour, continually fanned the flames. The agency deployed thirty-five fire fighters, three bulldozers, and four pumper trucks to fight the fire.⁶⁶

Lightning started the Little Water Fire on September 3, 1988. The fire burned for two days before it was contained. Then the Whiterocks Fire began two miles west of the Little

⁶⁴Cub Wallow Fire, Incident Report, Fire #5118 1/2, 1107-01, Forest Protection, Branch of Forestry, Bureau of Indian Affairs, Phoenix Area Office.

⁶⁵Reid Nielson to Lynn W. Mitton, April 6, 1977, TRD 8-7, 1107-21 Timber and Trespass Case File - Sand Wash Fire, Uintah and Ouray Branch of Forestry, Bureau of Indian Affairs, Phoenix Area Office.

⁶⁶Robert G. Reyos, "Emergency Wildfire Rehabilitation Project, Neola Wildfire," August 24, 1983, TRD 8-6, Reforestation-Rehabilitation, 1107-01, General Correspondence, Branch of Forestry, Bureau of Indian Affairs, Phoenix Area Office.



Water Fire on September 7, 1988. High winds drove the blaze through the Little Water Fire site, reburning the same area.⁶⁷

Fire fighting efforts became ever more sophisticated due to continual improvements in the Uintah and Ouray fire fighting program. The agency forestry staff prepared a 1985 Fire Mobilization Plan demonstrating "the high standards maintained in" the reservation fire program since the ill-fated initial fire fighting practices at the Bear Wallow Fire.⁶⁸ Supervisory Forestry Technician Robert Reyos, who replaced Grover Walter Sixkiller, prepared the 1985 fire plan. This blueprint delineated the Uintah and Ouray Reservation fire suppression and prevention strategies. The mobilization plan followed Bureau of Indian Affairs national fire policies. The plan described the reservation policies as suppressing "rapidly" wild fires which endanger the tribal forests and rangelands. The agency was determined to provide "fire and safety training for personnel involved in suppression activities."⁶⁹ Cooperative agreements, reinforced by the Bear Wallow Fire, remained a vital part of the reservation fire protection program.

6.6 The 1986 "Multi-Activity Review"

The publication of the 1985 reservation fire plan demonstrated the evolution of the Uintah and Ouray forestry program. In order to promote healthy growth, the program underwent a "Multi-Activity Review" in 1986. This survey represented the first review ever to occur during the Bureau of Indian Affairs tenure. Among other things, the evaluation would determine if there existed a need for placing a professional forester at the reservation.

The evaluation team was composed of Phoenix Area Office personnel including Fred Malroy, Area Forester; John Philbin, Assistant Area Forester; and Ernest Sakiestewa, Personnel Specialist for Classification.⁷⁰ The initial meeting between the evaluation team and the tribal

⁶⁷Robert G. Reyos, "Emergency Wildfire Rehabilitation Project, Neola Wildfire," August 24, 1983, TRD 8-6, Reforestation-Rehabilitation, 1107-01, General Correspondence, Branch of Forestry, Bureau of Indian Affairs, Phoenix Area Office; Emergency Fire Rehabilitation Plan, Whiterocks/Little Water Fires, Uintah and Ouray Agency, Fort Duchesne, Utah, October 17, 1988, Forest Rehabilitation Project, Whiterocks/Little Water - Uintah and Ouray, Forestry 13, Branch of Forestry, Bureau of Indian Affairs, Phoenix Area Office.

⁶⁸Walter R. Mills, Acting Area Director, to Superintendent of Uintah and Ouray Reservation, Transmittal Letter, April 1, 1985, 1985 Fire Mobilization Plan, Uintah and Ouray Agency, 1107-24, TRD 8, 1 J-2, Branch of Forestry, Bureau of Indian Affairs, Phoenix Area Office.

⁶⁹Robert G. Reyos, "1985 Fire Mobilization Plan," Uintah and Ouray Agency, 1107-24, TRD 8, 1 J-2, Branch of Forestry, Bureau of Indian Affairs, Phoenix Area Office.

⁷⁰Program Evaluation, 202-05, Uintah and Ouray Agency, January 2, 1986, p. 2, Branch of Forestry, Resources, Phoenix Area Office, Bureau of Indian Affairs, Phoenix, Arizona.

and agency staff set the tone for the report. The reservation superintendent scolded both tribal leaders and Bureau of Indian Affairs officials claiming, "Neither the tribe nor the Bureau has a well defined functional statement and set of objectives because knowledge was lacking about the extent and potential of the forest resource."⁷¹

The evaluation team quickly discovered why the tribe refused to develop their forests. The team found that there "is an unwritten, though accepted, policy that the tribe discourages harvesting green timber and does not want to manage the forest for commercial timber production." As a result, the only substantial cutting that has occurred at Uintah and Ouray has been "periodic flurries of somewhat more intensive harvest activities during strong market cycles." This conservative tribal logging policy eliminates the need for daily concerns with lumber markets. As a result, the tribe instituted the permit system, and harvesting nearly stopped from 1980-1982 when there was a lumber market recession.⁷²

Following these preliminary discussions, the evaluation team examined reservation commercial forests, since the breadth of the forest determined the scope of forestry activities. The evaluation team reiterated an old but persistent theme: the Uintah and Ouray possessed a "commercial Ponderosa pine forest of limited value and potential."⁷³

Despite this limited commercial value, the reservation's forests and woodlands protected valuable watersheds and habitat as well as contributing recreation potential, and these forestry variables provided limited income to the tribe.⁷⁴ The same can be said for the timber variable. As a result of the low revenue potential, "The tribe's interest in the forestry program is limited."⁷⁵ The tribe's lack of interest in forestry was long-term. The team noted, "Historical and current utilization of the Indian forest for commercial exploitation can best be described as marginal."⁷⁶

This low tribal priority for a timber program limited the available forestry personnel. In turn, this forced the agency staff to examine every source for personnel. The reservation fire management plan demonstrated that practice where the agency employed seasonal forest

⁷¹Ibid., p. 3.

⁷²Ibid., p. 4.

⁷³Ibid., p. 3.

⁷⁴Ibid., p. 4.

⁷⁵Ibid., p. 3.

⁷⁶Ibid., p. 4.

development employees at the beginning of the fire season, then added AD employees. The consolation was that this fire program was adapted to the local fire and forestry situation.⁷⁷

The Phoenix Area Office forestry evaluation team had a positive impression of the Uintah and Ouray forestry program. The evaluators reported, "In general the Agency staff is doing a commendable job." Because of the present constraints, the evaluators concluded, "With a limited forest resource base and limited tribal interest in promoting a forestry program, the Bureau's investment in money and professional expertise has properly been limited."⁷⁸

The evaluation report sought optimistically to increase the reservation forest resources. The team wrote, "Additional commercial forest acreage of yet unknown potential may be available from some part of an estimated 300 - 400 thousand acres of pinyon-juniper forest type." Obtaining technical data was essential to determine the value of these woodlands. As the evaluators concluded, "Development of this potential awaits compilation of basic inventory/management data and clarification of tribal aspirations."⁷⁹

6.7 Forest and Woodlands Inventory and Analysis

Less than one year after completion of the "Multi-Activity Review," reservation woodlands acreage and resources increased. For that reason alone, it became imperative that the reservation forestry program continually adjust to these new conditions. On December 1, 1986, the United States Supreme Court decided not to hear on appeal the case, The Ute Indian Tribe vs. The State of Utah, and let stand lower court rulings. The high court refused to hear the state of Utah's appeal to the Supreme Court and left standing lower court decisions which ruled that the "Appropriation Acts of 1902, 1903, 1904, and 1905 and other Acts of Congress" did not disestablish the Uintah and Ouray Reservation. Since the reservation was not diminished by these acts, the lower court rulings increased reservation forests and woodlands.⁸⁰

On the Uncompahgre Reservation, the court decisions moved the eastern reservation boundary east toward the Colorado state line, adding 1,455,000 acres of "dry grass, sagebrush, piñon-juniper land" to the existing reserve. Of this amount, the court added 502,990 acres of non-commercial woodland to the Uncompahgre Reservation. This forced the Superintendent to ask for additional funding to increase fire protection, recommending an additional \$70,114.80

⁷⁷Ibid., p. 12.

⁷⁸Ibid., summary.

⁷⁹Ibid., p. 3.

⁸⁰Superintendent of Uintah and Ouray Agency, Memorandum Attachment, Uintah and Ouray Agency Briefing, December 9, 1986, 102-01, TRD 8, General Information, Uintah and Ouray Agency, Branch of Forestry, Bureau of Indian Affairs, Phoenix Area Office.

to pay for additional personnel and machinery. The Bureau of Land Management and the State of Utah were the major landowners in this area.⁸¹

The Uintah and Ouray northern conifer mountain forests were also included in the lawsuit. The 973,777 acres that President Theodore Roosevelt placed in the forest reserve by executive order in 1905 remained under the jurisdiction of the U. S. Department of Agriculture, Ashley National Forest. Instead of land, "The Tribe received a judgement award and retains no title to the land." This section of the decision was not a total loss to the tribe. The Tenth Circuit Court ruled, "Tribal members may exercise their hunting and fishing rights on the Forest Reserve under Tribal regulations concurrently with other recreational use of the land by non-members."⁸²

This case increased interest, acreage, and importance of the reservation woodlands. At the same time, the Bureau of Indian Affairs also became more interested in the commercial value of reservation woodlands. Acting Secretary of the Interior for Indian Affairs Hazel Elbert ordered the Branch of Forestry, Bureau of Indian Affairs, to manage tribal woodlands for commercial purposes in August, 1987.⁸³

Though commercial woodlands produce less per acre than commercial conifer forests, the Uintah and Ouray pinyon and juniper have potential for greater commercial utilization of the reservation's vast forest resource. To determine the extent of Uintah and Ouray Reservation woodlands, the Intermountain Research Station conducted an "Extensive Forest Inventory" on the reservation in 1988. The Bureau of Indian Affairs, Phoenix Area Office, and the Intermountain Research Station, Ogden, Utah, concluded "an interagency agreement" in 1977 providing "for cooperation in making forest inventories for Indian reservations." Because of the need to continue gathering forest data, the 1977 cooperative agreement included "cooperation for specific forest inventory of the Uintah and Ouray Reservation in Utah."⁸⁴

The Forest Service began the Continuous Forest Inventory in 1988. Commercial timber as well as the woodlands were included in this study, and two sets of data were collected. To obtain forest data, "About 98 Continuous Forest Inventory (CFI) plots are to be remeasured in the timberland zone, which is composed of three separate areas totaling about 30,000 acres."

⁸¹Ibid., p. 1.

⁸²Ibid.

⁸³Hazel E. Elbert to All Area Directors, Memorandum, August 10, 1987, Marketing and Business Development, Marketing 27, Part 1, 4400, Branch of Forestry, Bureau of Indian Affairs, Phoenix Area Office.

⁸⁴U. S. Forest Service, Intermountain Research Station, Uintah and Ouray Indian Reservation 1988 Forest Inventory Woodland Zone, Documentation Report, January 24, 1989, Branch of Forestry, Bureau of Indian Affairs, Phoenix Area Office.

An additional "120 variable temporary plots" were also measured. For the woodlands, the agency established "150 permanent field locations in this woodland zone, using a double 5,000 m grid for all but the Hillcreek Extension which will use a single 5,000 m grid."⁸⁵

The Continuous Forest Inventory plots were installed in 1977 and the first remeasurement was done in 1988. Those findings provided the information necessary for Phoenix Area Office Forester Robert P. Bizal to prepare "Uintah and Ouray Indian Reservation, 1988, Forest Inventory Analysis." In his preface, Bizal cautioned future reservation forest administrators stating, "Management decisions based on this analysis should be conservative because of the low number of plots and resultant high statistical errors."⁸⁶

Bizal's study moved in emphasis from the focus of past Uintah and Ouray forest investigations. Instead of organizing data to correspond with the timber units, Bizal stressed cover type, "regardless of location of cover types by unit."⁸⁷ The forester identified four cover types: ponderosa pine, lodgepole pine/mixed conifer, aspen, and woodland for the reservation.

Based on his interpretation of existing data, Bizal determined that 7,549 acres of "ponderosa pine cover type" exist on the reservation. Of this amount, only 6,629 acres "are considered operable."⁸⁸ Based on growth rates, "uneven-aged management," and "A 20-year cutting cycle," Bizal calculated the "net allowable cut developed for the ponderosa pine timber type is 489,000 board feet per year."⁸⁹ On the other hand, an ongoing mountain pine beetle infestation meant that the potential existed for disruption of this allowable annual cut, thus forcing the tribe to initiate a greater cut to salvage the damaged trees.⁹⁰

Lodgepole pine/mixed conifer cover type covered 12,337 acres. Of this amount, only 6,997 acres were operable. Due to mountain pine beetle infestation and the overmature condition of this cover type, Bizal recommended clearcutting 87.5 acres every year to produce 166,000 net board feet annually.⁹¹

⁸⁵Ibid.

⁸⁶Robert P. Bizal, "Uintah and Ouray Indian Reservation, 1988, Forest Inventory Analysis," United States Department of the Interior, Bureau of Indian Affairs, Phoenix Area Office, November, 1990, preface.

⁸⁷Ibid., p. I-13.

⁸⁸Ibid., p. III-1.

⁸⁹Ibid., p. III-14.

⁹⁰Ibid., pp. III-14-III-15.

⁹¹Ibid., pp. III-25, III-35.

Over the years, aspen cover has assumed greater importance in the Uintah and Ouray Reservation forestry. Bizal categorized this cover type as commercial, possessing "very high value as big game habitat, a high priority tribal consideration."⁹² Aspen encompassed "4971 operable acres." Over one-third of the aspen suffered from disease, a condition which might force the tribe to consider "cutting to stimulate vigorous sprouting" in order to preserve this cover type for game habitat.⁹³

Pinyon-juniper woodland was the last cover type identified by Bizal and was the largest by acreage. Pinyon-juniper covered 286,991 acres, of which only 116,144 was operable "on slopes not exceeding 20 percent, and outside Grand County." This is a dry forest and, therefore, a slow growing forest; often "A typical dominant tree takes about 200 to 250 years to reach its full growth potential."⁹⁴

Like the aspen cover type, woodlands cover type has become more important to the reservation. Previous "management emphasis of pinyon-juniper woodland primarily has been reduction of the overstory to increase forage production for livestock." Changing tribal priorities for pinyon-juniper placed an emphasis on "fuelwood, post and pole production, and improved wildlife habitat."⁹⁵ This recent interest in reservation woodlands created an information shortage. Historic detachment from the woodlands meant a lack of data. As Bizal noted, "Because of limited research findings, any attempt to quantify potential growth and yield of pinyon-juniper woodlands is elementary at best."⁹⁶

At the conclusion of his study, Bizal made several recommendations. Because of the need for reliable data, he recommended "As first priority, [the need to] develop an accurate timber type map based on up-to-date aerial photography."⁹⁷ Next, he advocated increasing the number of Continuous Forest Inventory plots along with accompanying modifications to provide more data, something which could be done without tribal planning. After that the tribe had to develop specific timber objectives before foresters could organize CFI plots for specific goals. To encourage the Uintah and Ouray Tribal Business Committee to consider the future of the

⁹²*Ibid.*, p. III-36.

⁹³*Ibid.*, pp. III-36, III-44.

⁹⁴*Ibid.*, p. III-45.

⁹⁵*Ibid.*, p. III-50.

⁹⁶*Ibid.*, p. IV-1.

⁹⁷*Ibid.*

reservation forests, Bizal recommended a "planning session between agency and Area Office forestry staff to discuss inventory objectives and establish time frames."⁹⁸

The preparation of a "Uintah and Ouray Forest Management Plan for the Period 1990-1999," was the first step in planning for the future of the Uintah and Ouray Reservation forests. The Uintah and Ouray Tribal Business Committee passed a resolution on October 26, 1987, approving forest management goals for the tribe. An "Inter-disciplinary team" was assembled at the tribe's request to prepare the forest management plan, insuring that non-forestry interests also provided comments. Committee members included tribal representatives, agency staff members, and area office delegates and represented a wide range of interests.⁹⁹

Characteristically, the tribe approved a conservative tribal forest management plan in 1987. The Uintah and Ouray Tribal Business Committee limited logging to cutting mountain pine beetle infested ponderosa pine and lodgepole pine. The Ute Tribe also wanted to continue moderate forest management practices and to consolidate all reservation "forest management practices with other affected resources and their management strategies." The related resource use of the forest included "wildlife protection and enhancement, fisheries protection, recreation management, cultural and historical preservation, and fuels/fire management."¹⁰⁰

With this policy, the tribe established a future management program that restrained tribal timber sales. The cutting emphasis was on diseased trees, Ute domestic wood consumption, and wildlife habitat. The last use represents a substantial departure from the post-war era where the reservation woodlands and forests were used for grazing purposes.

6.8 Conclusion

The last two decades of "custodial management" reflect the tribe's conservative approach to forestry. This ongoing emphasis on "custodial management" created a reluctance to intensely log the limited reservation commercial conifer forests. Often, tribesmen cut the most wood annually using the tribe's free woodlands for domestic purposes. That logging pattern could not support extensive forestry conservation activities. These circumstances dictated that reservation forestry personnel remain at a minimal level. And without a large staff, the agency was forced either to postpone or stop conservatory and technical projects. Despite the tribe's conservative position, the Uintah and Ouray Bureau of Indian Affairs Branch of Forestry, in conjunction with the Phoenix Area Office, began to collect the forest and woodland data essential for the ongoing planning process.

⁹⁸*Ibid.*, p. IV-2.

⁹⁹"Uintah and Ouray Forest Management Plan For the Period, 1990-1999," Draft copy, Branch of Forestry, Bureau of Indian Affairs, Phoenix Area Office, pp. II, IV.

¹⁰⁰*Ibid.*, p. 4.

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PHOTOGRAPHIC ESSAYS

PHOTOGRAPHIC ESSAY 1



Photo 1-1. Sheep-Cottonwood Forest (no date). Photo courtesy of Indian Irrigation Service, Fort Duchesne, Utah.



Photo 1-2. North Fork Chepeta Group, 1931. Photo courtesy of Indian Irrigation Service, Fort Duchesne, Utah.

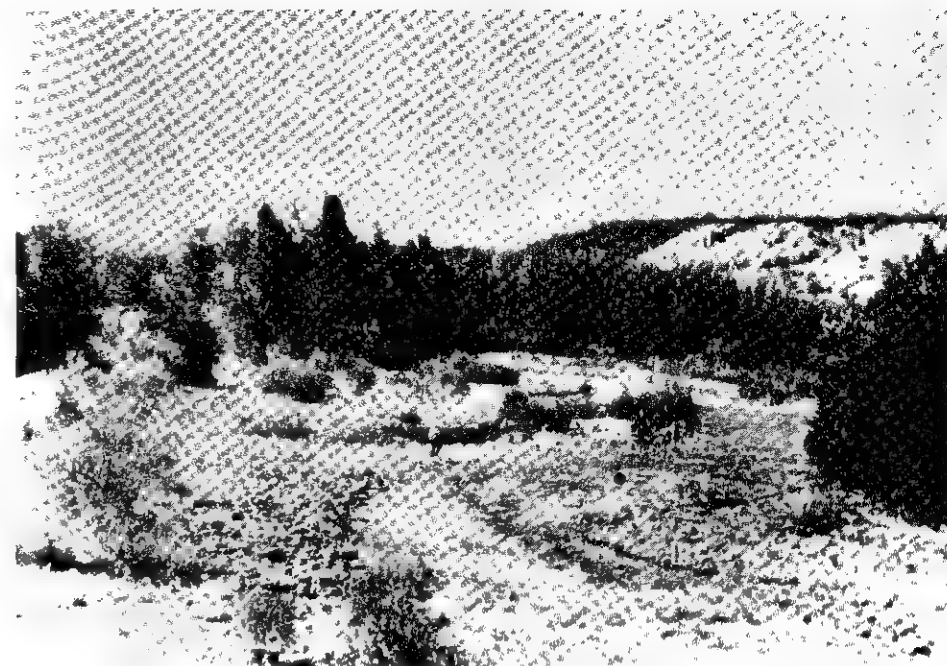


Photo 1-3. Rocky Stream Soil (no date). Photo courtesy of Indian Irrigation Service, Fort Duchesne, Utah.



Photo 1-4. Riparian Zones, Leland Landing (n.d.). Photo courtesy of Indian Irrigation Service, Fort Duchesne, Utah.



Photo 1-5. Upper elevation vegetation. Photo courtesy of Indian Irrigation Service, Fort Duchesne, Utah.

PHOTOGRAPHIC ESSAY 2

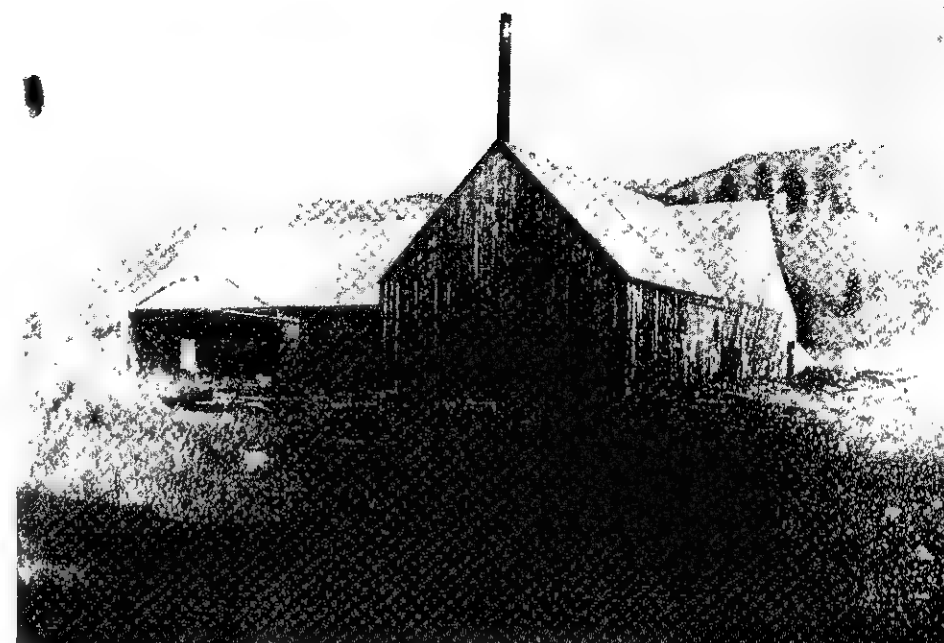


Photo 2-1. Sawmill at Dry Gulch, 1912. Sections 21 and 18, T2N, R3W. 11048-11-339, Central Classified Files, RG 75, NA.



Photo 2-2. Government Sawmill, Dry Gulch. 1912. 11048-11-339, Central Classified Files, RG 75, NA.

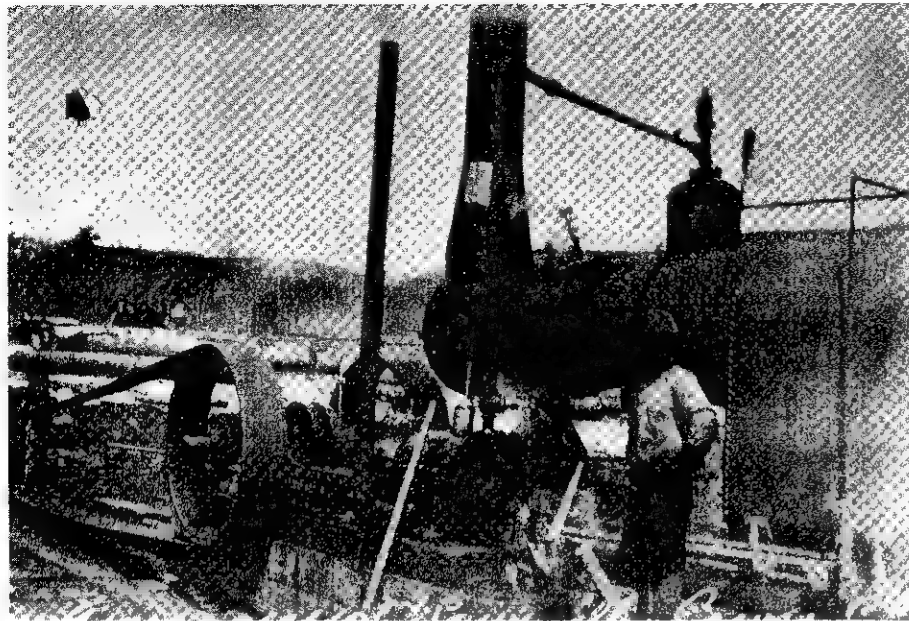


Photo 2-3. Dry Gulch Sawmill Boiler, 1912. 11048-11-339, Central Classified Files, RG 75, NA.

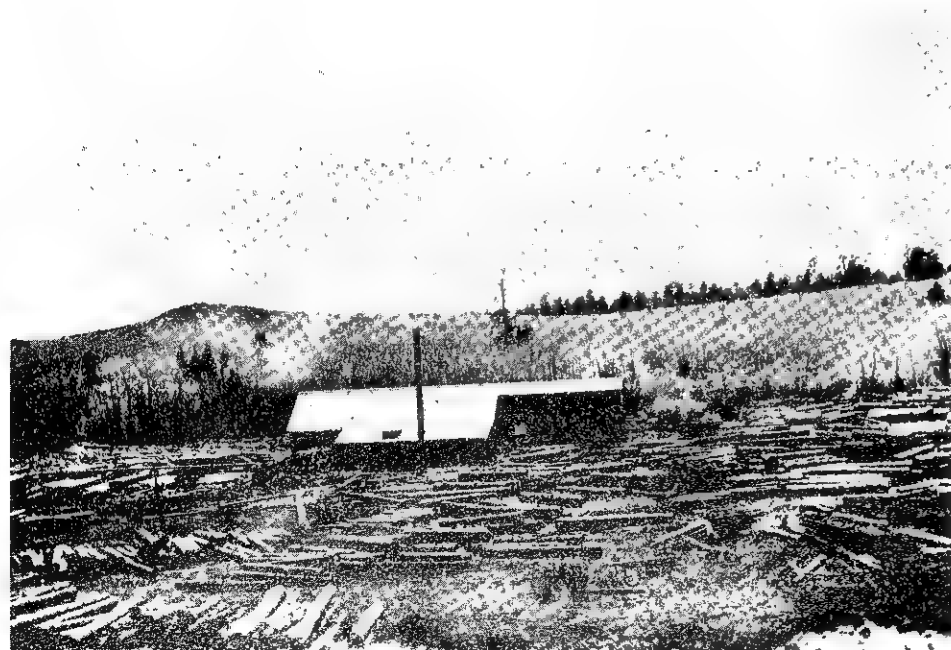


Photo 2-4. Sawmill on Dry Gulch Creek (n.d.). 708544-13-150, Inspection, RG 75, NA.



Photo 2-5. Sawmill on Dry Gulch Creek (n.d.). 708544-13-150, Inspection, RG 75, NA.



Photo 3-1. Dry Gulch Camp (n.d.). Scene of cutting wood. Photo courtesy of Civilian Conservation Corps, Indian Division (CCC-ID), Fort Duchesne, Utah.

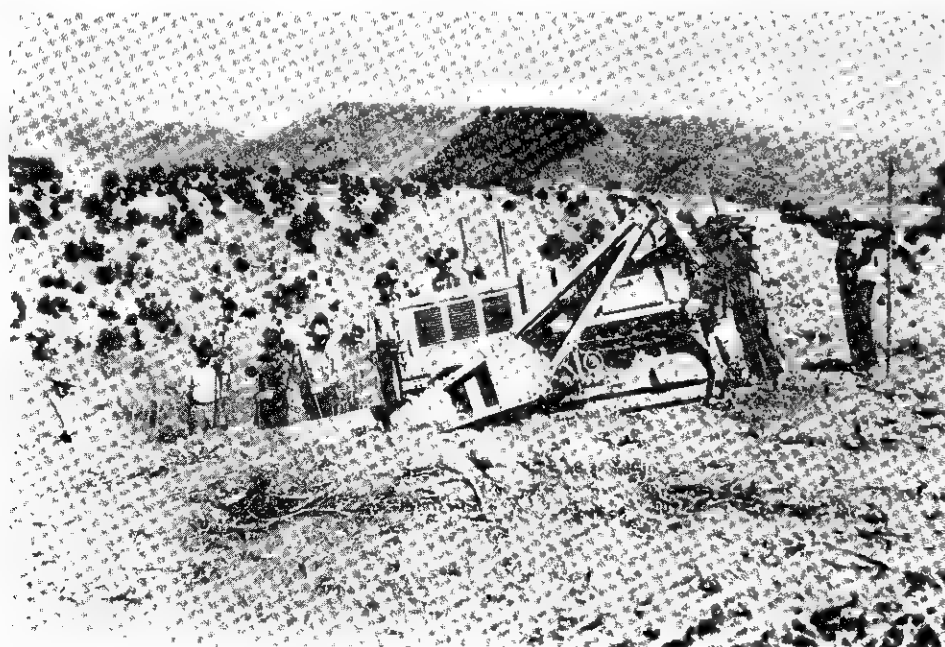


Photo 3-2. Project 2. Whiterocks: John Starr Truck Trail System. Scene of trail builder making a side hill cut. Photo courtesy of CCC-ID, Fort Duchesne, Utah.



Photo 3-3. Project 2. Whiterocks: John Starr Truck Trail System. Scene of team and grader doing maintenance work. Photo courtesy of CCC-ID, Fort Duchesne, Utah.



Photo 3-4. Project 3. John Starr-Rock Creek Truck Trail System. Scene of team at quitting time, coming down the truck trail. Photo courtesy of CCC-ID, Fort Duchesne, Utah.



Photo 3-5. Project 3. John Starr-Rock Creek Truck Trail System. Scene of trail builder and crew. Photo courtesy of CCC-ID, Fort Duchesne, Utah.



Photo 3-6. Project 3. John Starr-Rock Creek Truck Trail System. Scene of powder crew at work. Photo courtesy of CCC-ID, Fort Duchesne, Utah.



Photo 3-7. Project 3. John Starr-Rock Creek Truck Trail System. Scene of part of the truck trail. Photo courtesy of CCC-ID, Fort Duchesne, Utah.



Photo 3-8. Project 16. Dry Gulch Ranger Station. Photo courtesy of CCC-ID, Fort Duchesne, Utah.



Photo 3-9. Project 16. Dry Gulch Ranger Station. Scene of completed cabin, garage and work shed. Photo courtesy of CCC-ID, Fort Duchesne, Utah.

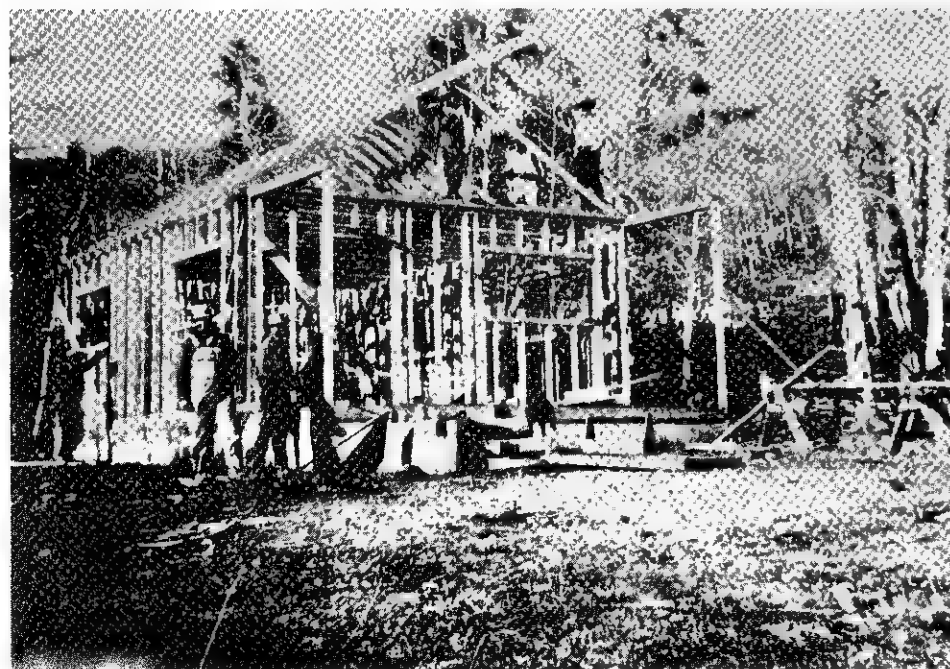


Photo 3-10. Project 16. Dry Gulch Ranger Station. Scene of crews at work. Photo courtesy of CCC-ID, Fort Duchesne, Utah.

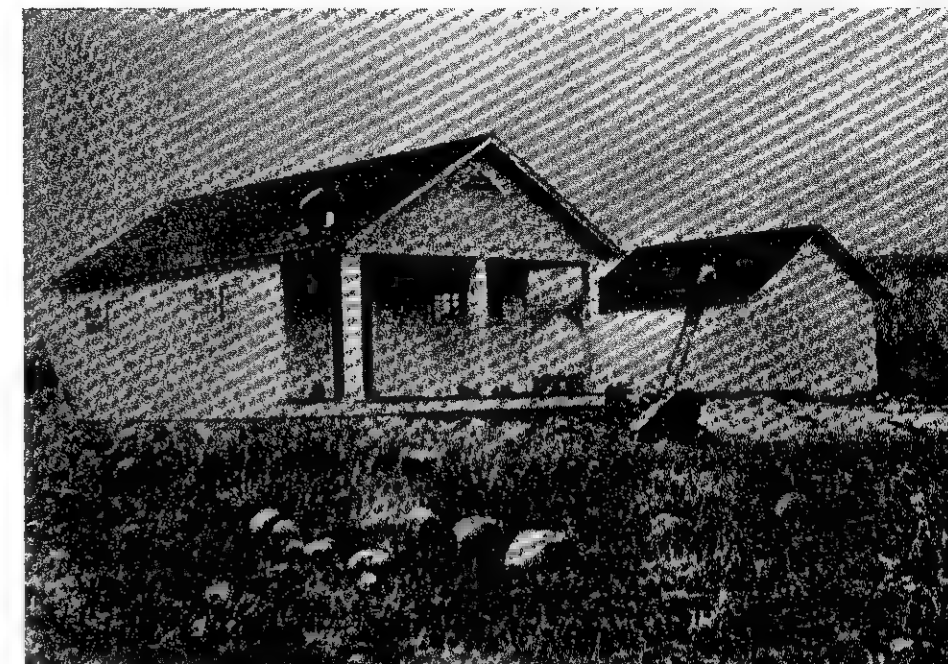


Photo 3-11. Project 17. Uintah River Ranger Station. Photo courtesy of CCC-ID, Fort Duchesne, Utah.



Photo 3-12. Project 19. Whiterocks: Rock Creek Telephone System, Dry Gulch Camp. Photo courtesy of CCC-ID, Fort Duchesne, Utah.



Photo 3-13. Project 19. Whiterocks: Rock Creek Telephone System, Dry Gulch Camp. Photo courtesy of CCC-ID, Fort Duchesne, Utah.

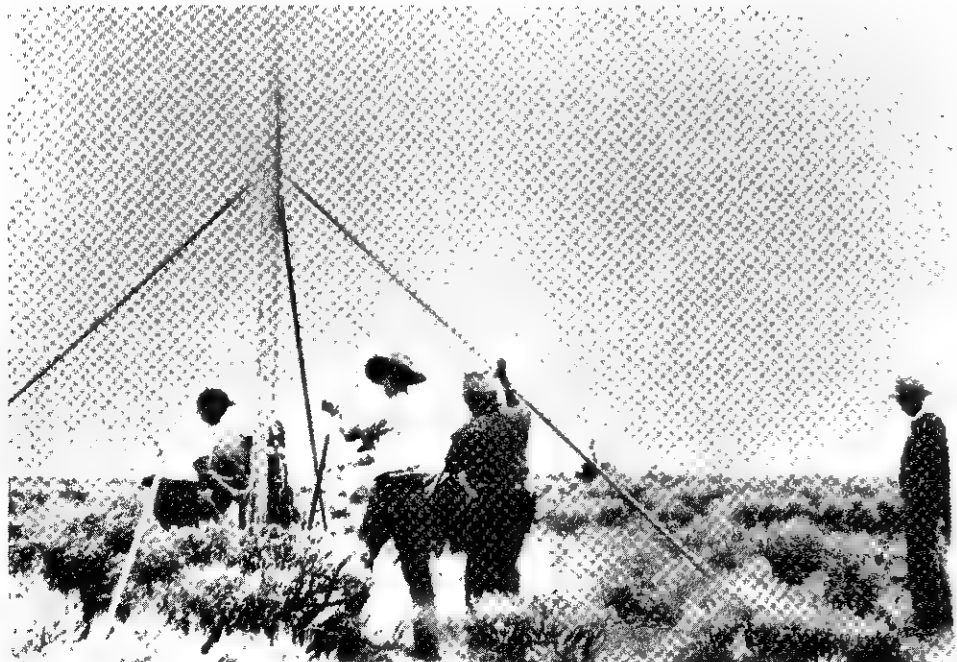


Photo 3-14. Project 19. Whiterocks: Rock Creek Telephone System. Scene of setting a pole. Photo courtesy of CCC-ID, Fort Duchesne, Utah.

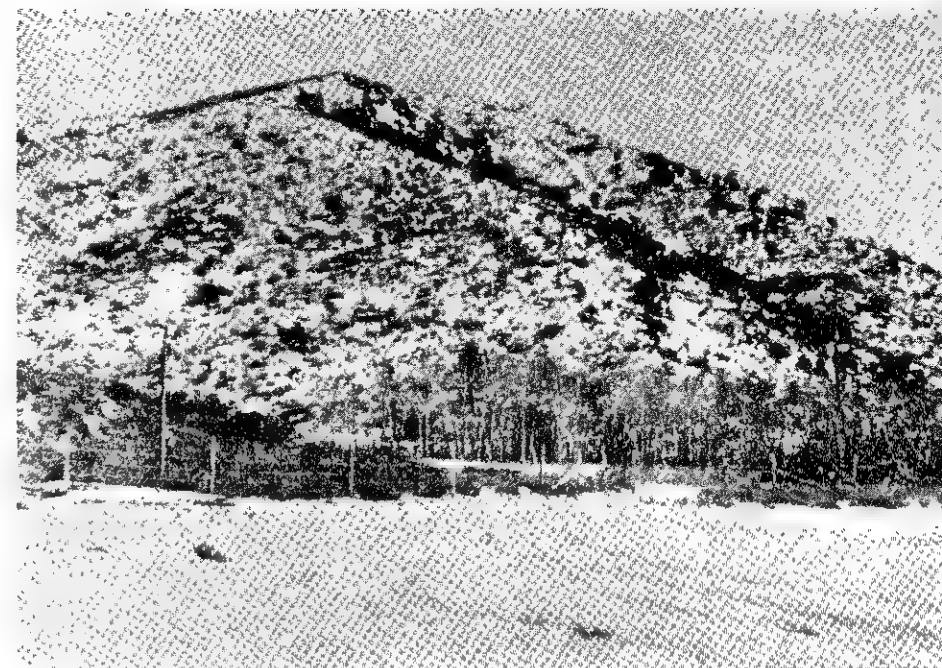


Photo 3-15. Project 25. Lookout Tower on Bit Hill. Photo courtesy of CCC-ID, Fort Duchesne, Utah.

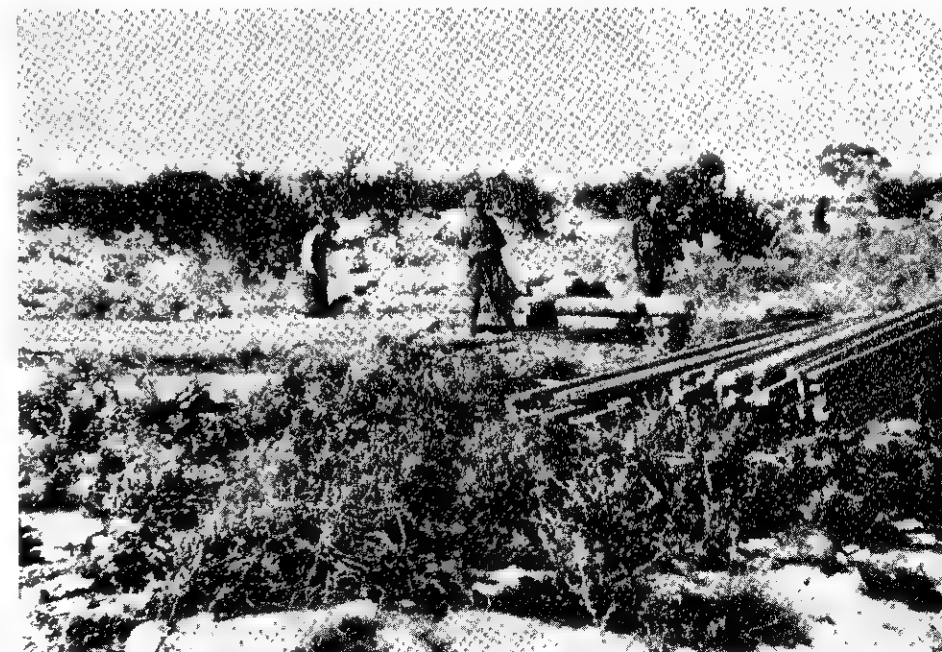


Photo 3-16. Project 26. Coyote Basin Ranger Station. Scene of hewing logs for the house. Photo courtesy of CCC-ID, Fort Duchesne, Utah.

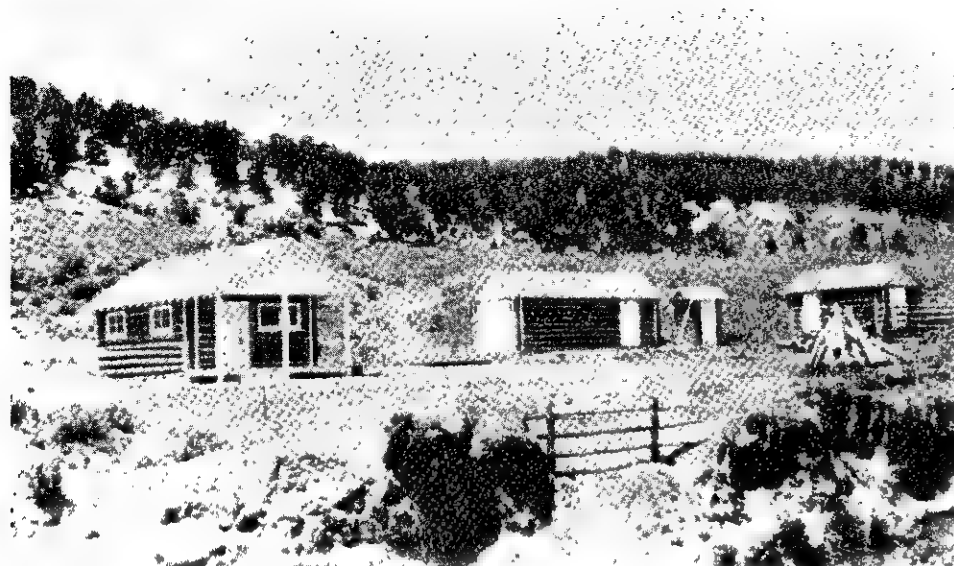


Photo 3-17. Project 27. Farar Creek Ranger Station. Photo courtesy of CCC-ID, Fort Duchesne, Utah.



Photo 3-18. Project 30. Scene of the Boundary Sign on the road north of Neola, Utah. Photo courtesy of CCC-ID, Fort Duchesne, Utah.



Photo 3-19. Project 32. Uintah and Rock Creek Bridge. Scene of crews working on the Uintah River Bridge. Photo courtesy of CCC-ID, Fort Duchesne, Utah.



Photo 3-20. Project 32. Uintah and Rock Creek Bridge. Scene of crews working on the Uintah River Bridge. Photo courtesy of CCC-ID, Fort Duchesne, Utah.

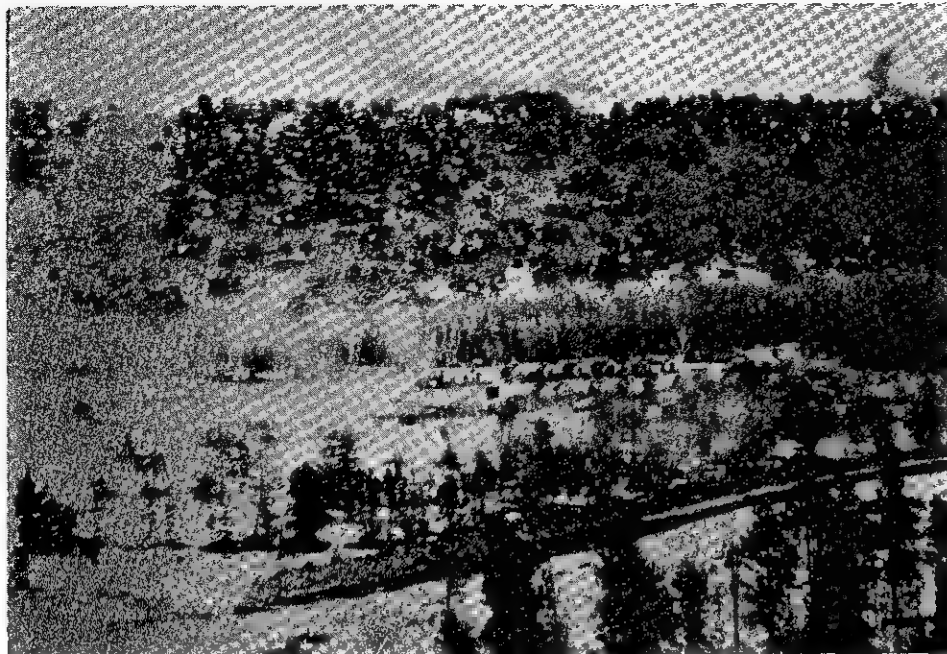


Photo 3-21. Project 32. Uintah River Camp. Scene of the camp. Photo courtesy of CCC-ID, Fort Duchesne, Utah.



Photo 3-22. Project 42. Rock Creek Bridge. Scene of Rock Creek Camp. Photo courtesy of CCC-ID, Fort Duchesne, Utah.



Photo 3-23. Project 182. Beetle Control. Scene of felling a tree. Photo courtesy of CCC-ID, Fort Duchesne, Utah.

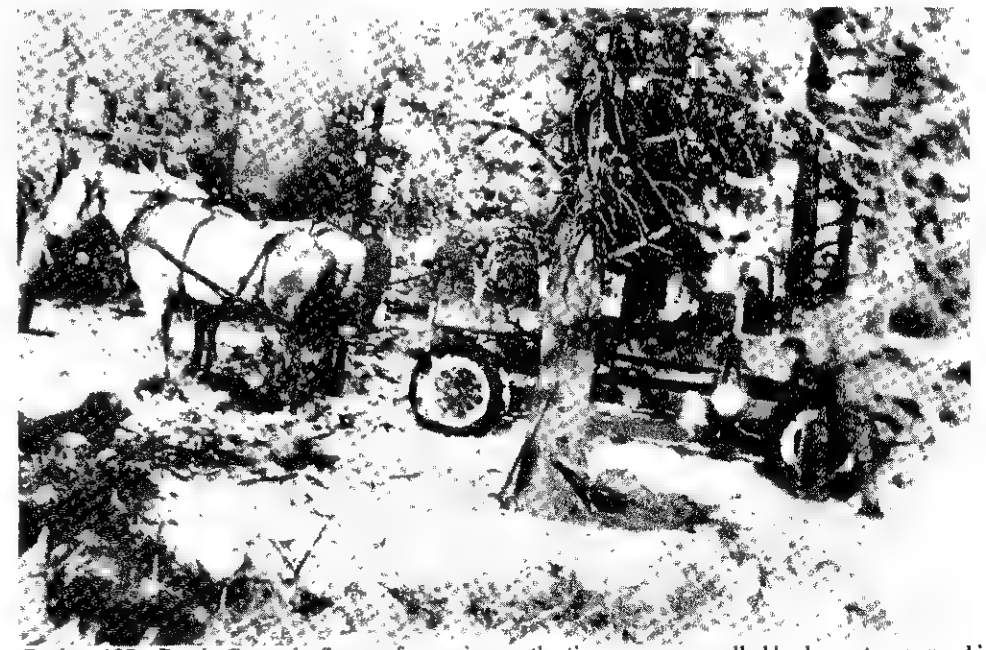


Photo 3-24. Project 182. Beetle Control. Scene of pumping up the tire on wagon pulled by horse team, used in decking the beetle logs. Photo courtesy of CCC-ID, Fort Duchesne, Utah.



Photo 3-25. Project 182. Beetle Control. Scene of spraying a control fire with fuel oil. Photo courtesy of CCC-ID, Fort Duchesne, Utah.



Photo 3-26. Project 182. Beetle Control. Scene of beetle control crews. Photo of CCC-ID, Fort Duchesne, Utah.

PHOTOGRAPHIC ESSAY 4



Photo 4-1. Irrigation Lumber Project. Scene of crew member beginning the project, using a two-man chainsaw. December 26, 1950. Annual Irrigation Report, 1950-1951, p. 15. 44906-46-032, Central Classified Files, RG 75, NA.

Photo 4-2. Irrigation Lumber Project, December 26, 1950. Annual Irrigation Report, 1950-1951, p. 15. 44906-46-032, Central Classified Files, RG 75, NA.



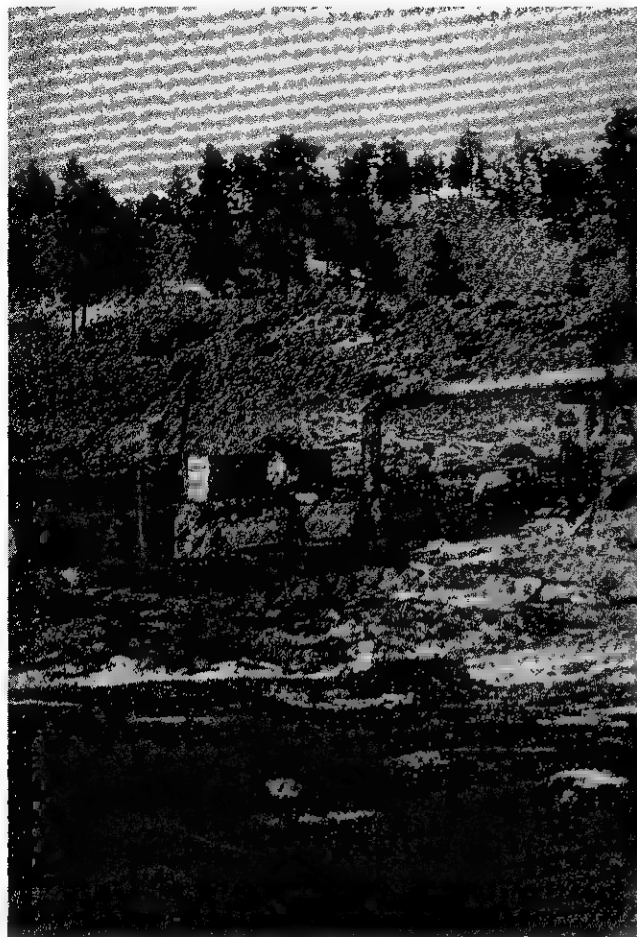


Photo 4-3.

Sawing Irrigation Lumber Project logs in the woods, February 1951. Mill set up at mouth of Bear Wallow Road. Sawing by private contractor. Annual Irrigation Report, 1950-1951, p. 16. 44906-46-032, Central Classified Files, RG 75, NA.



Photo 4-4.

Irrigation Lumber Project. Scene of loading logs on Army surplus 6x6 truck. Annual Irrigation Report, 1949. 44906-46-032, Central Classified Files, RG 75, NA.

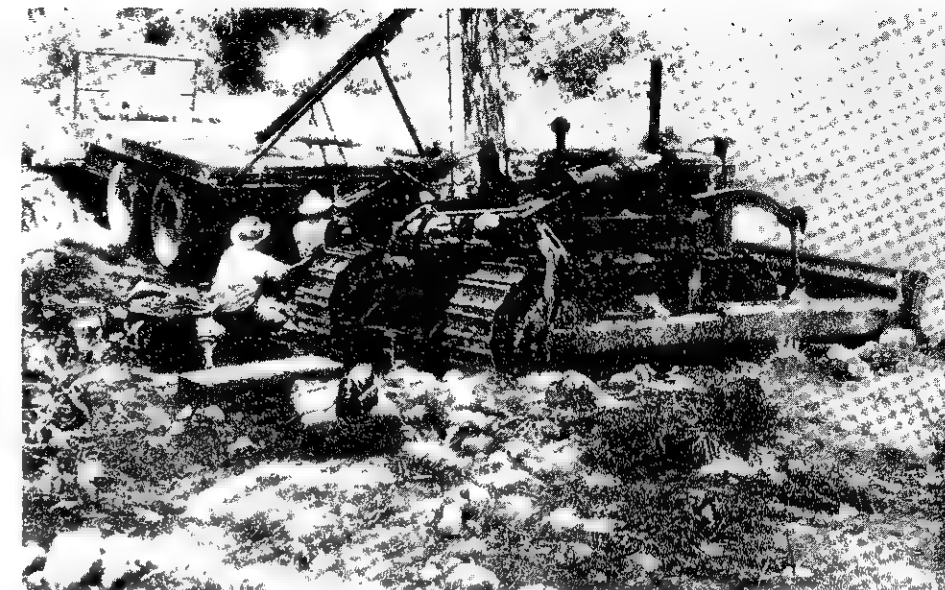


Photo 4-5.

Irrigation Lumber Project. Scene of tractor being repaired. Annual Irrigation Report, 1950-1951, p. 34. 44906-46-032, Central Classified Files, RG 75, NA.

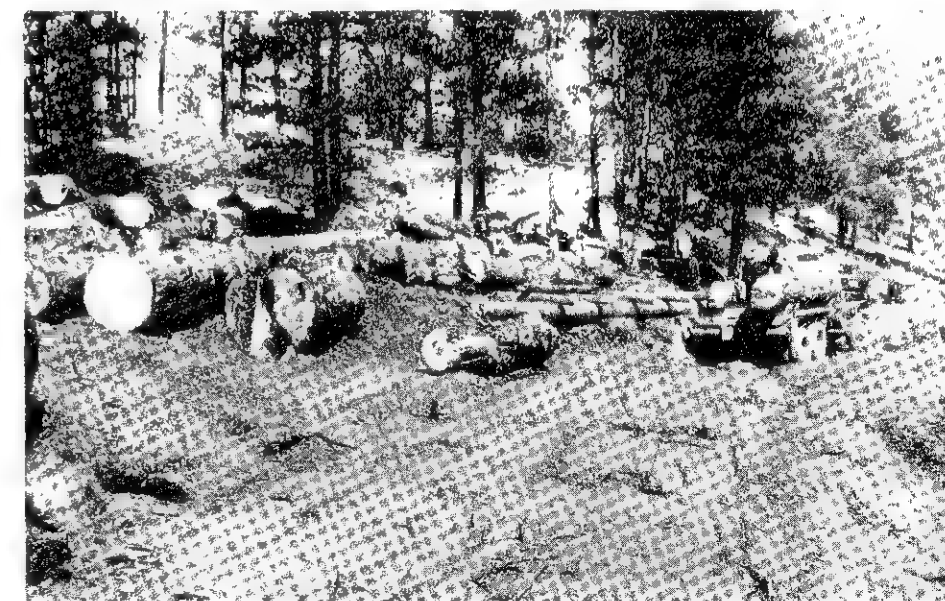


Photo 4-6.

Irrigation Lumber Project. Scene of loading yellow pine logs. Annual Irrigation Report, 1950-1951, p. 34. 44906-46-032, Central Classified Files, RG 75, NA.

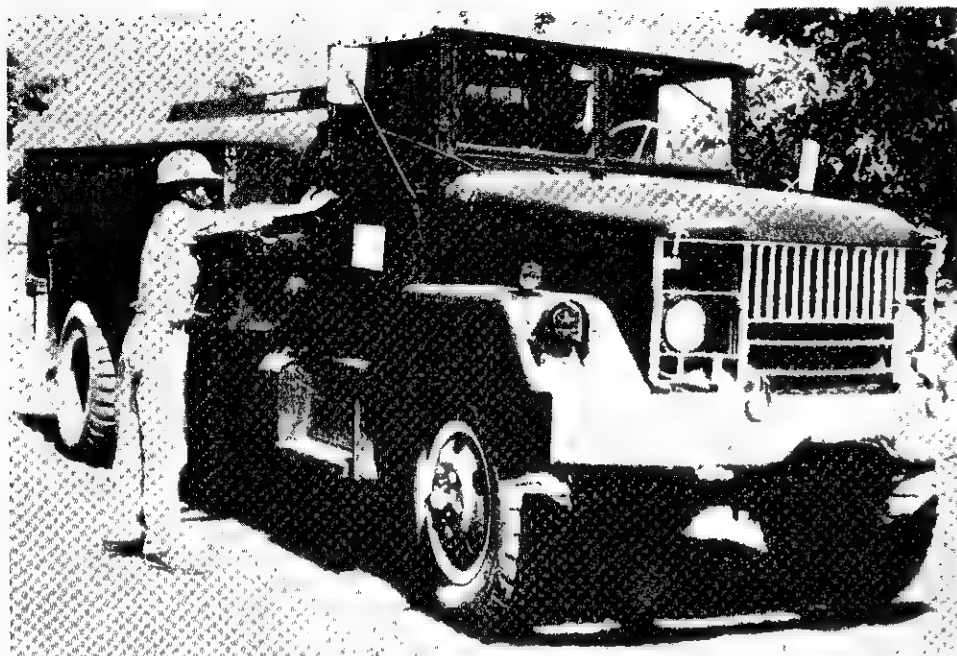


Photo 5-1. Ute Indian Fire Control. Scene of aid to the fire truck. Photo from Annual Meeting, Exhibit, 1964, courtesy of Society of American Foresters, Denver, Colorado.



Photo 5-2. Ute Indians building foot-horse trail, 1964. Photo from Annual Meeting, Exhibit, 1964, courtesy of Society of American Foresters, Denver, Colorado.



Photo 5-3. Porcupine Control Work. Scene of Ute worker positioning strychnine blocks. Photo from Annual Meeting, Exhibit, 1964, courtesy of Society of American Foresters, Denver, Colorado.



Photo 5-4. Ute Indian holding an ornamental fence pole. Photo from Annual Meeting, Exhibit, 1964, courtesy of Society of American Foresters, Denver, Colorado.



Photo 5-5. Timber Stand Improvement. Photo from Annual Meeting, Exhibit, 1964, courtesy of Society of American Foresters, Denver, Colorado.



Photo 5-6. Logging Lodgepole Pine Poles. Photo from Annual Meeting, Exhibit, 1964, courtesy of Society of American Foresters, Denver, Colorado.



Photo 5-7. Timber: Felling Ponderosa Pine. Photo from Annual Meeting, Exhibit, 1964, courtesy of Society of American Foresters, Denver, Colorado.



Photo 5-8. "Limbing" a Ponderosa Pine. Photo from Annual Meeting, Exhibit, 1964, courtesy of Society of American Foresters, Denver, Colorado.



Photo 5-9. "Bucking" a Ponderosa Pine. Photo from Annual Meeting, Exhibit, 1964, courtesy of Society of American Foresters, Denver, Colorado.



Photo 5-10. Ponderosa Pine Logs Ready To Go. Photo from Annual Meeting, Exhibit, 1964, courtesy of Society of American Foresters, Denver, Colorado.

PHOTOGRAPHIC ESSAY 6



Photo 6-1. Roy Degler, Forester, Uintah and Ouray Reservation.

Photo 6-2. Forester Roy Degler. Christmas Tree Project.

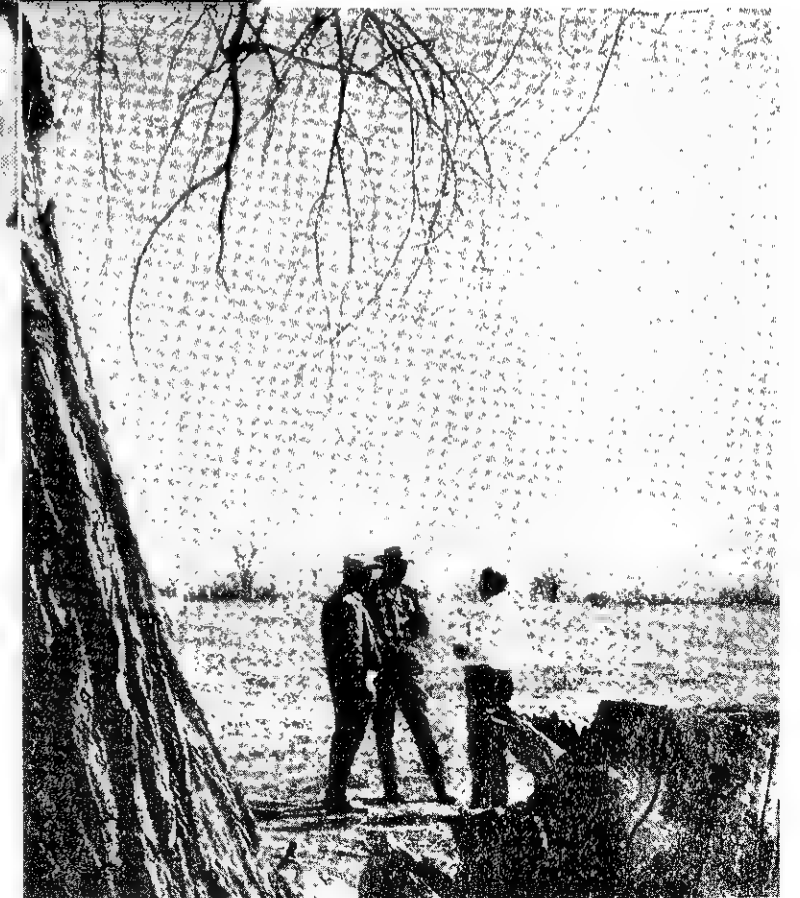




Photo 6-3. Tribal members. Christmas Tree Project.



Photo 6-4. Roy Degler. Christmas Tree Project.

PHOTOGRAPHIC ESSAY 7



Photo 7-2. 1977 Thinning Project
Scene of timber stand
after thinning.

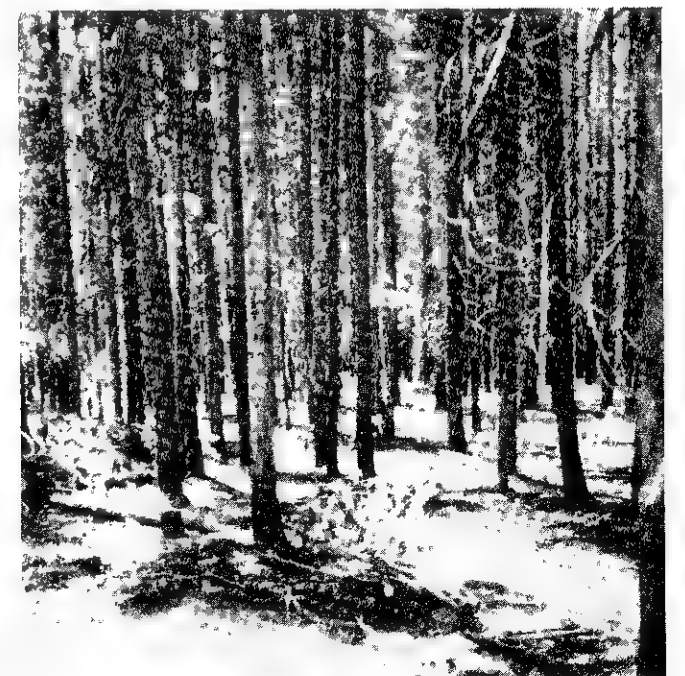




Photo 7-3. 1977 Thinning Project.
Scene of burning slash.

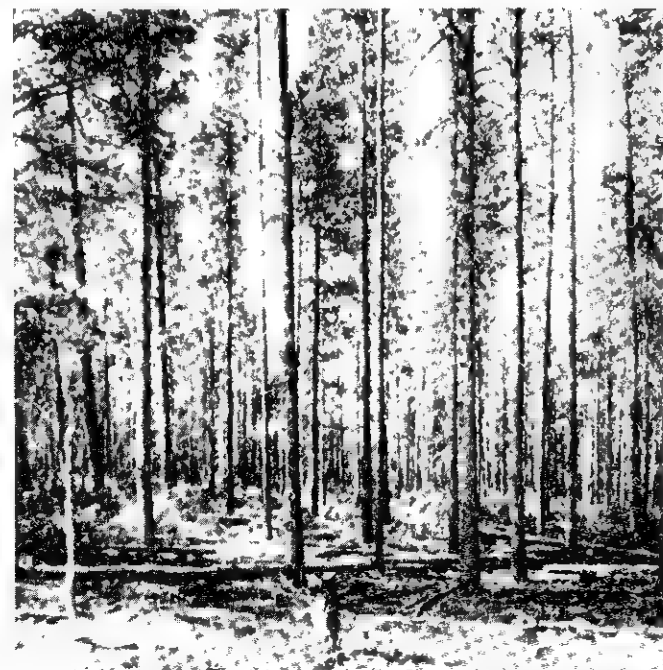


Photo 7-4. 1977 Thinning Project.

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APPENDICES

Appendix A. Legislation

Appendix B. Memorabilia

Appendix C. Interviews

Appendix D. Forest Development

Appendix E. Chronology of Key Personnel

APPENDIX A

LEGISLATION

1. Executive Order of October 3, 1861. Charles J. Kappler, compiler and editor, Indian Affairs: Laws and Treaties, Vol. I, Laws (2d ed.), Comp. to December 1, 1902 (Washington, D.C.: Government Printing Office, 1904), p. 900.
2. Act of June 15, 1880. 21 Stat. 199-205.
3. Executive Order of January 5, 1882. Charles J. Kappler, compiler and editor, Indian Affairs: Laws and Treaties, Vol. I, Laws (2d ed.), comp. to December 1, 1902 (Washington, D.C.: Government Printing Office, 1904), p. 901.
4. Act of May 24, 1882. 25 Stat. 157-158.
5. Act of June 7, 1897. 30 Stat. 87 (62).
6. Act of June 4, 1898. 30 Stat. 429-430.
7. Act of March 1, 1899. 30 Stat. 940-941 (924).
8. Act of May 27, 1902. 32 Stat. 263-264 (245), Part 1.
9. Public Resolution No. 31, June 19, 1902. 32 Stat. 744-745.
10. Act of March 3, 1903. 32 Stat. 998 (982), Part 2.
11. Act of March 3, 1905. 33 Stat. 1069-1070 (1048), Part 1.
12. Proclamation of the President, July 14, 1905. 33 Stat. 3116-3119, Part 3.
13. Act of June 21, 1906. 34 Stat. 376 (325), Part 1.
14. Act of February 13, 1931. 46 Stat. 1092-1093, Part 1.
15. Act of March 11, 1948. 62 Stat. 72-78.
16. Act of August 27, 1954. 68 Stat. 868-878.

PART III. EXECUTIVE ORDERS RELATING TO RESERVES.

Uintah Valley Reserve.

[In the Uintah and Ouray Agency: area, 3,186 square miles; occupied by Goshute, Pavant, Uinta, Yampa, Grand River, Cheonapahgre, and White River Ute: acts of May 5, 1864 (13 Stat., 63), and May 21, 1888 (25 Stat., 157).]

DEPARTMENT OF THE INTERIOR,

Washington, October 3, 1861.

SIR: I have the honor herewith to submit for your consideration the recommendation of the Acting Commissioner of Indian Affairs that the Uintah Valley, in the Territory of Utah, be set apart and reserved for the use and occupancy of Indian tribes.

In the absence of an authorized survey (the valley and surrounding country being as yet unoccupied by settlements of our citizens), I respectfully recommend that you order the entire valley of the Uintah River within Utah Territory, extending on both sides of said river to the crest of the first range of contiguous mountains on each side, to be reserved to the United States and set apart as an Indian reservation.

Very respectfully, your obedient servant,

CALEB B. SMITH, *Secretary.*

The PRESIDENT.

EXECUTIVE OFFICE, October 3, 1861.

Let the reservation be established, as recommended by the Secretary of the Interior.

A. LINCOLN.

(See acts of Congress, approved May 5, 1864, 13 Stats., 63, June 18, 1878, 20 Stats., 165, and May 24, 1888, 25 Stats., 157.)

WAR DEPARTMENT,

Washington City, August 31, 1887.

To the PRESIDENT:

SIR: Upon recommendation of the commanding general, Division of the Missouri, I have the honor to request that the following-described tract of land in the Territory of Utah, embraced within the limits of the Uintah Indian reservation, created by Executive order dated October 3, 1861, and act of Congress approved May 5, 1864 (13 Stats., 63), may be duly declared and set apart by the Executive as a military reservation for the post of Fort Du Chesne, viz:

Beginning at a point 2 miles due north of the flag-staff of Fort Du Chesne, Utah Territory, and running thence due west 1 mile to the northwest corner; thence due south 3 miles to the southwest corner; thence due east 2 miles to the southeast corner; thence due north 3 miles to the northeast corner; thence due west 1 mile to the point of beginning.

Area: Six square miles, 2 by 3.

The Secretary of the Interior states that there is no objection on the part of that Department to the use of the tract in question for military purposes (the selection of which is the result of a mutual agreement), provided it be understood that the same be subject to such right, title, and interest as the Indians have to and in said land, which shall be vacated whenever the interest of the Indians require it.

A sketch of the proposed military reservation is inclosed herewith.

I have the honor to be, sir, with great respect, your obedient servant.

R. MACFEELY,

Acting Secretary of War.

EXECUTIVE MANSION,

Washington, September 1, 1887.

The within request is approved and the reservation is made and proclaimed accordingly: *provided*, that the use and occupancy of the land

CHAP. 222.—An act making an appropriation for the erection of a light-house and fog-bell on Old Gay Rock at the entrance of Wickford Harbor, Narragansett Bay. June 15, 1880.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be appropriated, out of any money in the Treasury not otherwise appropriated, forty-five thousand dollars, for the purpose of erecting a light-house and fog-bell on Old Gay Rock at the entrance of Wickford Harbor, Narragansett Bay, under the direction of the Secretary of the Treasury, and that the old light in said harbor be discontinued upon the completion of the new one.

Approved, June 15, 1880.

Wickford Harbor.
Erection of light-house and fog-bell at entrance.
Appropriation.

CHAP. 223.—An act to accept and ratify the agreement submitted by the confederated bands of Ute Indians in Colorado, for the sale of their reservation in said State, and for other purposes, and to make the necessary appropriations for carrying out the same. June 15, 1880.

Whereas certain of the chiefs and headmen of the confederated bands of the Ute tribe of Indians, now present in the city of Washington, have agreed upon and submitted to the Secretary of the Interior an agreement for the sale to the United States of their present reservation in the State of Colorado, their settlement upon lands in severalty, and for other purposes; and

Whereas the President of the United States has submitted said agreement, with his approval of the same, to the Congress of the United States for acceptance and ratification, and for the necessary legislation to carry the same into effect: Therefore

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That said agreement be, and the same is hereby, accepted, ratified, and confirmed: *Provided*, That the said agreement shall be amended by adding to the first clause thereof, after the words "guilty parties", the words following, to wit: "Until such surrender or apprehension, or until the President shall be satisfied that the guilty parties are no longer living or have fled beyond the limits of the United States, the proportion of the money, hereinafter provided, coming to that portion of the Ute Indians known as the White River Utes, except for removal and settlement, shall not be paid"; and by adding to the third express condition of said agreement after the word "forever", the words following, to wit: "*Provided*, That the President of the United States may, in his discretion, appropriate an amount thereof, not exceeding ten thousand dollars, for the education in schools established within or beyond the limits of the lands selected, of such youths of both sexes as in his judgment may be best qualified to make proficiency in practical industries and pursuits necessary for their self-support, and out of the portion of said moneys coming to the White River Utes, the United States shall pay annually to the following-named persons, during the period of twenty years, if they shall live so long, the following sums respectively: To Mrs. Arivella D. Meeker, five hundred dollars; to Miss Josephine Meeker five hundred dollars; to Mrs. Sophronia Price, five hundred dollars; to Mrs. Maggie Gordon, five hundred dollars; to George Dresser, two hundred dollars; to Mrs. Sarah M. Post, five hundred dollars; to Mrs. Eaton, mother of George Eaton, two hundred dollars; to the parents of Arthur L. Thompson two hundred dollars; to the father of Fred Shepard, two hundred dollars; to the parents of Wilmer Eskridge, two hundred dollars"; and by adding to the fifth express condition of said agreement after word "reaffirmed", the words following to wit: "This sum, together with the annuity of fifty thousand dollars hereinbefore provided, may, in the discretion of Congress, at the end of twenty-five years, be capitalized, and the principal sum be paid to said Indians per capita in lieu of said annuities": *And provided also*, That three-fourths of the adult male members of said confederated bands shall

Preamble.

Ute Indians in Colorado.

Proviso.
Agreement for sale of lands.
Amended and ratified.

Proviso.

Schools.

Payment annually for twenty years to certain persons.

Agreement further amended.

Proviso.

Proviso.

agree to and sign said agreement, upon presentation of the same to them, in open council, in the manner hereinafter provided: *Provided further*, That nothing in this act contained, or in the agreement herein set forth, or in the amendments herein proposed to said agreement, shall be so construed as to compel any Ute Indian to remove from any lands that he or she claims in severalty. Said agreement is in words and figures as follows, namely:

Agreement.

The chiefs and headmen of the confederate bands of the Utes now present in Washington, hereby promise and agree to procure the surrender, to the United States, for trial and punishment, if found guilty, of those members of their nation, not yet in the custody of the United States, who were implicated in the murder of United States Indian Agent N. C. Meeker and the murder of and outrages upon the employees at the White River Agency on the twenty-ninth day of September, eighteen hundred and seventy-nine, and in case they do not themselves succeed in apprehending the said parties, presumably guilty of the above-mentioned crime, that they will not in any manner obstruct, but faithfully aid, any officers of the United States, directed by the proper authorities, to apprehend such presumably guilty parties.

The said chiefs and headmen of the confederated bands of Utes also agree and promise to use their best endeavors with their people to procure their consent to cede to the United States all the territory of the present Ute Reservation in Colorado, except as hereinafter provided for their settlement.

The Southern Utes agree to remove to and settle upon the unoccupied agricultural lands on the La Plata River, in Colorado; and if there should not be a sufficiency of such lands on the La Plata River and in its vicinity in Colorado, then upon such other unoccupied agricultural lands as may be found on the La Plata River or in its vicinity in New Mexico.

The Uncompahgre Utes agree to remove to and settle upon agricultural lands on Grand River, near the mouth of the Gunnison River, in Colorado, if a sufficient quantity of agricultural land shall be found there, if not then upon such other unoccupied agricultural lands as may be found in that vicinity and in the Territory of Utah.

The White River Utes agree to remove to and settle upon agricultural lands on the Uintah Reservation in Utah.

Allotment.

Allotments in severalty of said lands shall be made as follows:

To each head of a family one-quarter of a section, with an additional quantity of grazing land not exceeding one-quarter of a section.

To each single person over eighteen years of age one-eighth of a section, with an additional quantity of grazing land not exceeding one-eighth of a section.

To each orphan child under eighteen years of age one-eighth of a section, with an additional quantity of grazing land not exceeding one-eighth of a section; and to each other person, under eighteen years, now living, or who may be born prior to said allotments, one-eighth of a section, with a like quantity of grazing land.

All allotments to be made with the advice of the commission hereinafter provided, upon the selection of the Indians, heads of families selecting for their minor children, and the agents making the allotment for each orphan child.

The said chiefs and headmen of the confederated bands of Utes further promise that they will not obstruct or in anywise interfere with travel upon any of the highways now open or hereafter to be opened by lawful authority in or upon any of the lands to be set apart for their use by virtue of this agreement.

Conditions of agreement.

First.

The said chiefs and headmen of the confederated bands of Utes promise to obtain the consent of their people to the cession of the territory of their reservation as above on the following express conditions:

First. That the Government of the United States cause the lands so set apart to be properly surveyed and to be divided among the said

Indians in severalty in the proportion hereinbefore mentioned, and to issue patents in fee simple to them respectively therefor, so soon as the necessary laws are passed by Congress. The title to be acquired by the Indians shall not be subject to alienation, lease, or incumbrance, either by voluntary conveyance of the grantee or by the judgment, order, or decree of any court, or subject to taxation of any character, but shall be and remain inalienable and not subject to taxation for the period of twenty-five years, and until such time thereafter as the President of the United States may see fit to remove the restriction, which shall be incorporated in the patents when issued, and any contract made prior to the removal of such restriction shall be void.

Second. That so soon as the consent of the several tribes of the Ute Nation shall have been obtained to the provisions of this agreement, the President of the United States shall cause to be distributed among them in cash the sum of sixty thousand dollars of annuities now due and provided for, and so much more as Congress may appropriate for that purpose; and that a commission shall be sent to superintend the removal and settlement of the Utes, and to see that they are well provided with agricultural and pastoral lands sufficient for their future support, and upon such settlement being duly effected, that they are furnished with houses, wagons, agricultural implements, and stock cattle sufficient for their reasonable wants, and also such saw and grist mills as may be necessary to enable them to commence farming operations, and that the money to be appropriated by Congress for that purpose shall be apportioned among the different bands of Utes in the following manner: One-third to those who settle on the La Plata River and vicinity, one-half to those settling on Grand River and vicinity, and one-sixth to those settling on the Uintah Reservation.

Third. That in consideration of the cession of territory to be made by the said confederated bands of the Ute Nation, the United States, in addition to the annuities and sums for provisions and clothing stipulated and provided for in existing treaties and laws, agrees to set apart and hold, as a perpetual trust for the said Ute Indians, a sum of money, or its equivalent in bonds of the United States, which shall be sufficient to produce the sum of fifty thousand dollars per annum, which sum of fifty thousand dollars shall be distributed per capita to them annually forever.

Fourth. That as soon as the President of the United States may deem it necessary or expedient, the agencies for the Uncompahgres and Southern Utes be removed to and established at suitable points, to be hereafter selected, upon the lands to be set apart, and to aid in the support of the said Utes until such time as they shall be able to support themselves, and that in the mean time the United States Government will establish and maintain schools in the settlements of the Utes, and make all necessary provision for the education of their children.

Fifth. All provisions of the treaty of March second, eighteen hundred and sixty-eight, and the act of Congress approved April twenty-ninth, eighteen hundred and seventy-four, not altered by this agreement, shall continue in force, and the following words from article three of said act, namely, "The United States agrees to set apart and hold, as a perpetual trust for the Ute Indians, a sum of money or its equivalent in bonds, which shall be sufficient to produce the sum of twenty-five thousand dollars per annum, which sum of twenty-five thousand dollars per annum shall be disbursed or invested at the discretion of the President, or as he may direct, for the use and benefit of the Ute Indians forever", are hereby expressly reaffirmed.

Sixth. That the commissioners above mentioned shall ascertain what improvements have been made by any member or members of the Ute Nation upon any part of the reservation in Colorado to be ceded to the United States as above, and that payment in cash shall be made to the individuals having made and owning such improvements, upon a fair and liberal valuation of the same by the said commission, taking into consideration the labor bestowed upon the land.

Conditions—Continued.

Second.

Third.

Fourth.

Fifth.
1868, treaty of
March 2, Indians.
1874, ch. 135,
Stat., 18, 35.
Reaffirmed.

Sixth.

Date, 1880, Mar. 6. Done at the city of Washington this sixth day of March, anno Domini eighteen hundred and eighty.
Signed

Signatures.

CHAVANAUX ^{his} X
IGNATIO ^{his} X
ALHANDRA ^{his} X
VERATZITZ ^{his} X
GALOTA ^{his} X
JOCKNICK ^{his} X
WASS ^{his} X
SAWAWICK ^{his} X
OURAY ^{his} X

Witnesses.

Witnesses:

WILL F. BURNS, Interpreter.
W. H. BERRY, Interpreter
OTTO MEARS, Interpreter
HENRY PAGE, United States Indian Agent, Southern Utes.
CHARLES ADAMS, Special Agent.

Commissioners appointed, compensation, expenses.

Clerk's salary, bond, duties.

To report.

Census of Indians.

Particulars of census.

SEC. 2. That the President of the United States be, and he is hereby, authorized and empowered to appoint, by and with the advice and consent of the Senate, five commissioners, who shall receive compensation for their services at the rate of ten dollars per diem while actually engaged, in addition to their actual traveling and other necessary expenses; and said commissioners shall, under such instructions as the Secretary of the Interior may give them, present said agreement to the confederated bands of the Ute Indians in open council for ratification, as provided in the first section of this act; and said commissioners shall have a clerk, at a salary of two hundred dollars per month, in addition to his actual traveling and other necessary expenses, and who shall give bond in an amount to be fixed by the Secretary of the Interior, and shall act also as disbursing officer for said commissioners. And upon the ratification of said agreement by said tribe as herein provided, said commissioners shall, under the direction of the Secretary of the Interior, appraise the improvements belonging to said Ute Indians upon the lands surrendered by them as provided in said agreement, and report the same to the Secretary of the Interior for settlement. It shall be their duty to take a careful census of said Indians, separating them under said census as follows:

First. Those known in the agreement above referred to as Southern Utes.

Second. Those known as Uncompahgre Utes.

Third. Those known as White River Utes.

Said census shall also show separately the name of each head of a family, and the number of persons in such family, distinguishing those over eighteen years of age from those under eighteen years of age, and giving the names of each separately; also, said census shall show separately the orphan children in each of said classes of Utes described in the foregoing agreement, and they shall make an accurate register of the names, ages, occupations, and general condition of each of the above classes as aforesaid, specifying particularly the number and names of said Indians incapable by reason of orphanage, minority, or other dis-

ability of managing their own affairs, and they shall also select lands and allot them in severalty to said Indians, as herein provided, and superintend the removal, location, and settlement of the Indians thereon, and do and perform such other services as the Secretary of the Interior may consider necessary for them to do in the execution of the provisions of this act.

And after the said commissioners shall have performed the duties specifically assigned to them by this act, and such other duties as the Secretary of the Interior may require of them, they shall make a full report of their proceedings to the Secretary of the Interior, which shall set forth, among other things, the name of each person to whom they may have apportioned and allotted lands as herein provided for, with the name and condition of such person, showing who, upon proofs, are considered incompetent to take charge of their property, either as orphans, minors, or for other causes; and shall also exhibit the quantity of land assigned to each person, with the metes and bounds of such allotments. And said commissioners shall make an accurate map of the whole survey and proceeding, showing the partition and division aforesaid, a copy of which map shall be filed with said report; and the Secretary of the Interior shall cause a copy to be filed in the General Land Office, and copies shall also be filed in the office of the surveyors-general of Utah, Colorado and New Mexico, and also in the office of the register and receiver of the land district in which such lands or any portion of them may be situate. Said commissioners shall further report the total number of acres allotted and set apart as provided by the foregoing agreement, the amount of such land tillable without irrigation, the amount of irrigation required, and the probable cost thereof. They shall also locate the agencies for the Southern Utes and the Uncompahgre Utes, shall furnish an estimate of the number of houses required, the cost of each, the number of school-houses required and the number of teachers, and the number of children of school age, and such other data as the Secretary of the Interior may require to enable him to make judicious expenditure of the money appropriated in section nine of this act; and said commissioners shall exercise direct supervision and control of all expenditures under this act during the time they remain in the Ute country, under the general direction of the Secretary of the Interior; and they shall render a full and detailed account of such expenditure, with the vouchers therefor, as now provided by law.

SEC. 3. That the Secretary of the Interior be, and he is hereby, authorized to cause to be surveyed, under the direction of said commissioners, a sufficient quantity of land in the vicinities named in said agreement, to secure the settlement in severalty of said Indians as therein provided. And upon the completion of said survey and enumeration herein required, the said commissioners shall cause allotments of lands to be made to each and all of the said Indians, in quantity and character as set forth in the agreement above mentioned, and whenever the report and proceedings of said commissioners, as required by this act, are approved by the President of the United States, he shall cause patents to issue to each and every allottee for the lands so allotted, with the same conditions, restrictions and limitations mentioned therein as are provided in said agreement; and all the lands not so allotted, the title to which is, by the said agreement of the confederated bands of the Ute Indians, and this acceptance by the United States, released and conveyed to the United States, shall be held and deemed to be public lands of the United States and subject to disposal under the laws providing for the disposal of the public lands, at the same price and on the same terms as other lands of like character, except as provided in this act: *Provided*, That none of said lands, whether mineral or otherwise, shall be liable to entry and settlement under the provisions of the homestead law; but shall be subject to cash entry only in accordance with existing law; and when sold the proceeds of said sale shall be first sacredly applied to reimbursing the United States for all sums paid out or set apart under this act by

Lands allotted in severalty.

Commissioners to make full report.

Map and survey.

Further report of acres allotted.

Agencies located.

Estimate of school-houses and school children.

To supervise and control expenditures and render accounts and vouchers.

Settlement in severalty.

Allotment of land in severalty.

Patents issued to allottees.

Lands not allotted, released, and conveyed to United States.

To be held and disposed of as other public lands.

Proviso.

Proceeds of sales, distribution of.

the government for the benefit of said Indians, and then to be applied in payment for the lands at one dollar and twenty-five cents per acre which may be ceded to them by the United States outside of their reservation, in pursuance of this agreement. And the remainder, if any, shall be deposited in the Treasury as now provided by law for the benefit of the said Indians, in the proportion hereinbefore stated, and the interest thereon shall be distributed annually to them in the same manner as the funds provided for in this act: *Provided further*, That the subdivisions upon which are located improvements to be appraised, as provided for in section two of this act, shall be offered to the highest bidder at public sale, after published notice of at least thirty days by the Secretary of the Interior, and the same shall be absolutely reserved from occupation or claim until so sold.

R. S. 1977.
Indians subject-
ed to provisions of.

Proviso.

SEC. 4. That upon the completion of said allotments and the patenting of the lands to said allottees, each and every of the said Indians shall be subject to the provisions of section nineteen hundred and seventy-seven of the Revised Statutes and to the laws, both civil and criminal, of the State or Territory in which they may reside, with the right to sue and be sued in the courts thereof: *Provided*, That their lands and personal property shall not be subject to taxation or execution upon the judgment, order, or decree of any court obtained on any cause of action which may arise during the period named in the above recited agreement.

SEC. 5. That the Secretary of the Treasury shall, out of any moneys in the Treasury not otherwise appropriated, set apart, and hold as a perpetual trust-fund for said Ute Indians, an amount of money sufficient at four per centum to produce annually fifty thousand dollars, which interest shall be paid to them per capita in cash, annually, as provided in said agreement.

SEC. 6. That all salaries paid to any member or members of the Ute tribe under existing treaty stipulations shall be continued for the term of ten years beyond the time fixed in said treaties. And the sum of four thousand dollars per annum for the term of ten years shall be distributed by the President at his discretion to such of said Indians as distinguish themselves by good sense, energy, and perseverance in the pursuits of civilized life, and in the promotion of a good understanding between the Indians and the Government and people of the United States, and there is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, four thousand dollars as the first installment for such purpose.

SEC. 7. That the provisions of title twenty-eight of the Revised Statutes shall extend over and be applicable to every allotment of land provided for in the foregoing agreement, and to the administration of the affairs of said Indians, so far as said provisions can be made applicable thereto.

SEC. 8. That the hot springs located in what is known as "The Uncompahgre Park", in the Uncompahgre Valley, and four square miles of land surrounding said springs and within said valley, are hereby reserved, and withdrawn from settlement, occupancy, or sale, under the laws of the United States, and dedicated and set apart for the benefit and enjoyment of the people; and, so far as practicable, the provisions of sections twenty-four hundred and seventy-four and twenty-four hundred and seventy-five, of the Revised Statutes, are hereby made applicable to said tract.

SEC. 9. That for the purpose of carrying the provisions of this act into effect, the following sums, or so much thereof as may be necessary, be, and they are hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, to be expended under the direction of the Secretary of the Interior as follows, namely:

For the payment of the expenses of the commissioners herein provided, the sum of twenty-five thousand dollars.

For the cost of removal and settlement of the Utes, surveying their lands, building houses, establishing schools, building mills and agency

Remainder de-
posited in Treas-
ury in trust for
Indians.

Proviso.

R. S. 1977.
Indians subject-
ed to provisions of.

Proviso.

Perpetual trust-
fund, interest
\$50,000, paid per
capita annually.

Salaries to Utes
continued ten
years longer than
stipulated in treat-
ies.
\$4,000 per annum
to be distributed
by the President.

R. S., Title 28,
extended to lands
allotted to Indians.

Hot Springs in
Uncompahgre
Park and four
square miles re-
served from sale,
&c.

R. S. 2474 and
2475 made appli-
cable thereto.

Appropriations.

Expenses of com-
missioners.

Removal, &c.,
Utes.

buildings, purchasing stock, agricultural implements, and so forth, as provided in said agreement and in this act, the sum of three hundred and fifty thousand dollars.

For the sum to be paid to said Ute Indians, per capita, in addition to the sixty thousand dollars now due and provided for, the sum of fifteen thousand dollars.

For the payment of the appraised value of individual improvements as provided herein, the sum of twenty thousand dollars.

For the care and support of the Ute Indians in Colorado for the balance of the current fiscal year, the sum of twelve thousand dollars: *Provided*, That with the exception of the appropriation for expenses of the commissioners, the above appropriations shall become available only upon the ratification of said agreement by three-fourths of the male adult members of the Ute Indians as provided in this act, and the certification of such fact to the Secretary of the Treasury by the Secretary of the Interior.

SEC. 10. If the agreement as amended in this act is not ratified by three-fourths of the adult male Indians of the Ute tribes within four months from the approval of this act the same shall cease to be of effect after that day.

Approved June 15, 1880.

CHAP. 224.—An act to establish Post Roads.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following post roads be, and the same are hereby established.

FLORIDA.

From Hawthorne Post-office, via Mrs McNabb's, to Palatka.
From Newnansville, to Fort White.

LOUISIANA.

From Jennings, via Point au Loup Springs, to Germantown.
From Welsh's, via Hickory Flat, to the Bay.
From Raynes, via Plaquemines Brusle, to Prudhomme City.
From Brownssardsville, via Rayville and Liddons Ferry, to Abbeville.

INDIAN TERRITORY.

From Fishomingo, via Timber Hill and R. S. Bell's, to Little Mineral, Texas.

MISSOURI

From West Plains, to Dixon Springs.

TEXAS.

From Clarksville, to Albien.

ALABAMA.

From Bell Green, to Toll Gate.
From Toadvine, to Hayes.
From Ramer, via J W Orin's, to Patterson.
From Bayou La Batre, to Bayou Oaden.
From Brewton, to Brooklyn.
From Gasque, to Theresa.

Per capita in ad-
dition to Utes.

Individual im-
provements.

Support of Utes
in Colorado cur-
rent fiscal year.
Proviso.

Time limited for
ratification of
amended agree-
ment by three-
fourths of male
adult Utes.

June 15, 1880.

Post-roads es-
tablished.

Florida.

Louisiana.

Indian Terri-
tory.

Missouri.

Texas.

Alabama.

in question be subject to such right, title, and interest as the Indians have in and to the same, and that it be vacated whenever the interest of the Indians shall require it, upon notice to that effect to the Secretary of War.

The Secretary of the Interior will cause the proper notation to be made in the General Land Office.

GROVER CLEVELAND.

Uncompahgre Reserve.

[In Uintah and Ouray Agency; occupied by Tabequache Ute; acts of June 15, 1880 (21 Stat., 199), and June 7, 1897 (30 Stat., 621).]

EXECUTIVE MANSION, January 5, 1882.

It is hereby ordered that the following tract of country, in the Territory of Utah, be, and the same is hereby, withheld from sale and set apart as a reservation for the Uncompahgre Utes, viz: Beginning at the southeast corner of township 6 south, range 25 east, Salt Lake meridian; thence west to the southwest corner of township 6 south, range 24 east; thence north along the range line to the northwest corner of said township 6 south, range 24 east; thence west along the first standard parallel south of the Salt Lake base-line to a point where said standard parallel will, when extended, intersect the eastern boundary of the Uintah Indian Reservation as established by C. L. Du Bois, United States deputy surveyor, under his contract dated August 30, 1875; thence along said boundary southeasterly to the Green River; thence down the west bank of Green River to the point where the southern boundary of said Uintah Reservation, as surveyed by Du Bois, intersects said river; thence northwesterly with the southern boundary of said reservation to the point where the line between ranges 16 and 17 east of Salt Lake meridian will, when surveyed, intersect said southern boundary; thence south between said ranges 16 and 17 east, Salt Lake meridian, to the third standard parallel south; thence east along said third standard parallel to the eastern boundary of Utah Territory; thence north along said boundary to a point due east of the place of beginning; thence due west to the place of beginning.

CHESTER A. ARTHUR.

WASHINGTON.

Chehalis Reserve.

[In Puyallup Agency; occupied by Chinook (Tsimuk), Clatsop, and Chehalis; area, three-fourths of a square mile.]

DEPARTMENT OF THE INTERIOR.

Office of Indian Affairs, May 17, 1864.

SIR: I have the honor to submit for your direction in the premises sundry communications and papers from Superintendent Hale in reference to a proposed reservation for the Chehalis Indians in Washington Territory.

The condition of these Indians has been the subject of correspondence between this office and the superintendent of Indian affairs in Washington Territory for several years. It will be seen by Superintendent Hale's letter of July 3, 1862, that the country claimed by these Indians is large, comprising some 1,500 square miles; that they have never been treated with, but that the Government has surveyed the greater part of it without their consent and in the face of their remonstrances, and the choicest portions of their lands have been occupied by the whites without any remuneration to them, and without their

CHAP. 308.—An act to limit the hours that letter-carriers in cities shall be employed per day.

May 24, 1888.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter eight hours shall constitute a day's work for letter-carriers in cities or postal districts connected therewith, for which they shall receive the same pay as is now paid as for a day's work of a greater number of hours. If any letter-carrier is employed a greater number of hours per day than eight he shall be paid extra for the same in proportion to the salary now fixed by law.

Letter-carriers.
Eight hours a day's work.

Approved, May 24, 1888.

CHAP. 309.—An act to increase the limit of cost for the public building in course of erection at Charleston, South Carolina.

May 24, 1888.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the limit of cost for the public building about to be erected for the use of the United States courts, post-office, signal service, railway-mail service, and other Government uses, at Charleston, in the State of South Carolina, be fixed at the sum of three hundred thousand dollars instead of the present limit of cost.

Charleston, S. C.,
Public building.
Limit of cost increased.
Vol. 24, p. 334.

Approved, May 24, 1888.

CHAP. 310.—An act to restore to the public domain a part of the Uintah Valley Indian Reservation, in the Territory of Utah, and for other purposes.

May 24, 1888.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the Uintah Valley Indian Reservation, in the Territory of Utah, established by proclamation of the President, of date of October third, eighteen hundred and sixty-one, as lies within the following boundary, namely: Beginning at mile-post number nineteen, Du Bois' survey, from the initial point established in township eight south, range twenty east, Salt Lake meridian; thence southerly to the northeast corner of township two south, range one east, Uintah special meridian; thence south along the east boundary of township two south, range one east Uintah special meridian, to the south-east corner of township two south, range one east, Uintah special meridian; thence east along the north boundary of township three south, range two east, Uintah special meridian, to its intersection with the east boundary of the Uintah Indian Reservation, thence in a north-west direction with the eastern boundary line of said reservation to the beginning, be, and the same is hereby, declared to be public lands of the United States and restored to the public domain.

Uintah Valley Indian Reservation.
Portion of, restored to public domain.

Boundaries

SEC. 2. That said lands shall be disposed of at public or private sale in the discretion of the Secretary of the Interior, and upon his order, in quantities not exceeding one quarter of a section to any one purchaser, the non-mineral lands for not less than one dollar and twenty-five cents per acre, and not otherwise than for cash: *Provided*, That any location, entry, or entries, mineral or non-mineral, heretofore made or attempted to be made on said lands, or any part thereof, by any qualified person, shall bear date and be allowed the same as if said lands had been public lands at the time of said attempted location or institution of said proceedings, but said mineral entries shall not be completed except upon the payment of twenty dollars an acre, or at that rate for the amount taken up by the claim: *And provided further*, That all moneys arising from the sales of this land shall belong to said Indians and be paid into the Treasury of the

Sale of lands.

Provided
Prior locations, etc.

Proceeds to go to Indians.

United States and held or added to any trust funds of said tribes now there.

Ratification by Indians.

SEC. 3. That the Secretary of the Interior shall submit this act to the adult male Indians on said reservation, and the restoration shall take effect on a ratification by three-fourths thereof, and the Secretary of the Interior shall prescribe rules for ascertaining the wishes of said Indians and to secure their free action touching the proposed disposal of said lands.

Approved, May 24, 1888.

May 24, 1888.

CHAP. 319.—An act granting certain lands in the Territory of Wyoming for public purposes.

Wyoming.
Part of Fort Sanders
Reservation granted
as a fish-hatchery, etc.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the governor of the Territory of Wyoming is hereby authorized and empowered to cause to be selected and entered of the public lands contained within the boundaries of the Fort Sanders Military Reservation, in said Territory, as soon after the extension of the public surveys through said reservation as practicable, to an amount not exceeding six hundred and forty acres, as nearly as practicable in square form according to the public surveys; that the lands so selected and entered are hereby granted to the Territory of Wyoming, for the purpose of enabling the said Territory to maintain thereon a fish-hatchery, and other public institutions: *Provided*, That if the said Territory shall at any time permit the said lands hereby granted to be used for any purpose not contemplated by this act, the said lands shall revert to the United States: *Provided, further*, That nothing in this act contained shall be construed or have the effect to impair the rights of any person in or to any portion of said lands acquired under any law of the United States.

Approved, May 28, 1888.

Prior rights.

May 28, 1888.

CHAP. 320.—An act changing the name of the port of Lambertton, in the district of Burlington, New Jersey, to the port of Trenton, in said district.

Preamble.

Whereas, after the constituting of the port of Lambertton, in the collection district of Burlington, in the State of New Jersey, the borough of Lambertton, where such port is situated, was incorporated into and became a part of the city of Trenton, in said State: Therefore,

Port of Lambertton,
N. J., changed to Trenton.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the port now known as the port of Lambertton, in the collection district of Burlington, in the State of New Jersey, shall hereafter be known and denominated as the port of Trenton, in said district.

R. S., secs. 2541-2542,
p. 301

SEC. 2. That nothing in this act contained shall be construed to in any way affect the validity of any act heretofore done by the collector or any official of said port, nor to in any way affect the official standing of any official of said port, or the powers and duties of any such official, the sole intent and purpose of this act being to change the name of said port.

Name only changed.

SEC. 3. That this act shall take effect on the first day of July, eighteen hundred and eighty-eight.

Effect.

Approved, May 28, 1888.

Distribution.

House of Representatives. The distribution of the same shall be made as heretofore by the superintendent of documents, and to persons designated to receive them by the Members and Delegates of the present Congress. In making the distribution the fraction, or remainder, in each case shall be delivered by the superintendent of documents to the compiler. The Public Printer shall bind the personal copy for Senators and Members and Delegates in full morocco with gilt edges; and this order shall include the volumes already issued, that their sets may be uniform: *Provided*, That said personal copies not delivered to Senators, Members, or Delegates of the Fifty-fourth Congress who retired from Congress on March fourth, eighteen hundred and ninety-seven, prior to their retirement shall be sent by the superintendent of documents, as rapidly as they are printed, to their addresses; and the compiler shall prepare a full table of contents and a complete index for such compilation: *And provided further*, That the time within which Members of the Fifty-fourth Congress who are reelected to the Fifty-fifth Congress are required to designate persons to whom said compilation shall be sent be, and same is, extended to include the term of the Fifty-fifth Congress; and that the time within which Members of the Fifty-fourth Congress who are not reelected to the Fifty-fifth Congress are required to designate persons to whom said compilation shall be sent be, and is hereby, extended to the first day of December, eighteen hundred and ninety-seven. That the time allowed Members of the Fifty-fourth Congress to distribute public documents to their credit, or the credit of their respective districts in the Interior or other Departments and Bureaus, and in the Government Printing Office, on March first, eighteen hundred and ninety-seven, and to present the names of libraries, public institutions, and individuals to receive such documents, be, and the same is hereby, extended to December first, eighteen hundred and ninety-seven, and hereafter the time for such distribution by Members of Congress reelected shall continue during their successive terms and until their right to frank documents shall end. That the Public Printer be, and he is hereby, authorized and directed to make and deliver to James D. Richardson, the compiler of "Messages and Papers of the Presidents," without cost to him, duplicate electrotype plates from which the compilation "Messages and Papers of the Presidents" is published.

Proviso.
Undelivered per-
sonal copies of Sena-
tors, etc., 54th Con-
gress, etc., to be for-
warded to their ad-
dresses.

Extension of time
to Members 54th and
55th Congresses to de-
signate persons to re-
ceive, etc.

Public documents to
credit of Members 54th
Congress, etc. Time
extended for distribu-
tion, etc.

Duplicate electro-
type plates to James
D. Richardson, etc.

Sums for salaries to
be in full.

SEC. 2. That all sums appropriated by this Act for salaries of officers and employees of the Government shall be in full for such salaries for the fiscal year eighteen hundred and ninety-eight; and all laws or parts of laws in conflict with the provisions of this Act be, and the same are hereby, repealed.

Approved, June 4, 1897.

June 7, 1897.

CHAP. 3.—An Act Making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June thirtieth, eighteen hundred and ninety-eight, and for other purposes.

Indian Department
appropriations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses of the Indian Department in full compensation for all offices the salaries for which are specially provided for herein for the service of the fiscal year ending June thirtieth, eighteen hundred and ninety-eight, and fulfilling treaty stipulations for the various Indian tribes, namely:

CURRENT AND CONTINGENT EXPENSES.

Pay of agents at
agencies.

For pay of fifty-six agents of Indian affairs at the following-named agencies, at the rates respectively indicated, namely:

authorize any expenditure in connection with transportation of remains of deceased employees, except when otherwise specifically provided by law.

To reimburse David F. Day, United States Indian agent at the Southern Ute Agency, Colorado, for personal expenses incurred in defending the suit brought against him by José B. Lucero, for damages for malicious prosecution, which suit was subsequently decided in favor of said Day, three hundred and sixty-seven dollars and eighty cents.

The Secretary of the Interior is directed to negotiate through an Indian inspector with the Yankton tribe of Indians of South Dakota for the purchase of a parcel of land near Pipestone, Minnesota, on which is now located an Indian industrial school.

For commissioner, to be appointed by the President, by and with the advice and consent of the Senate, to superintend the sale of lands, ascertain who are the owners of the allotted lands, have guardians appointed for any minor heirs of deceased allottees, make deeds of the lands to the purchasers thereof, subject to the approval of the Secretary of the Interior, which deeds shall operate as a complete conveyance of the land upon payment of the purchase money therefor, and to carry out the provisions of the Act approved March third, eighteen hundred and ninety-three, relative to lands of the Puyallup Indian Reservation, Washington, as set forth on pages six hundred and thirty-three and six hundred and thirty-four of volume twenty-seven of the Revised Statutes, two thousand dollars.

The Secretary of the Interior is hereby directed to allot agricultural lands in severalty to the Uncompahgre Ute Indians now located upon or belonging to the Uncompahgre Indian Reservation in the State of Utah, said allotments to be upon the Uncompahgre and Uintah reservations or elsewhere in said State. And all the lands of said Uncompahgre Reservation not theretofore allotted in severalty to said Uncompahgre Utes shall, on and after the first day of April, eighteen hundred and ninety-eight, be open for location and entry under all the land laws of the United States; excepting, however, therefrom all lands containing gilsonite, asphalt, elaterite, or other like substances.

And the title to all of the said lands containing gilsonite, asphaltum, elaterite, or other like substances is reserved to the United States.

That the settlers who purchased with the condition annexed of actual settlement on all ceded Indian reservations be, and they are hereby, granted an extension of one year, in addition to the extensions heretofore granted, in which to make payments as now provided by law.

For repair of present bridge across Big Wind River, on the Shoshone Reservation in the State of Wyoming, the sum of three thousand dollars, to be immediately available.

To reimburse the county of Ormsby, State of Nevada, for money expended in the purchase of improvements on lands donated to the Government for an Indian school, six thousand three hundred and seventy-five dollars.

That it being impracticable to provide homes in the Indian Territory for the Absentee Wyandotte Indians as contemplated by the Acts of Congress approved June tenth, eighteen hundred and ninety-six, and of August fifteenth, eighteen hundred and ninety-four, the Secretary of the Interior is therefore directed to use the money appropriated therefor by Acts of August fifteenth, eighteen hundred and ninety-four, and March second, eighteen hundred and ninety-five, in locating homes for said Indians upon any lands that may be available and suitable for such purpose, except that out of said money so appropriated as aforesaid R. B. Armstrong, attorney of said Absentee Wyandottes, be allowed and paid the sum of one thousand dollars for his services and expenses already incurred in and about such matters in behalf of said Indians.

For completion of the digest, now being prepared under the direction of the Secretary of the Interior, of the decisions of the courts and the Interior Department, and of the opinions of the Attorney-General relating to Indian Affairs, under authority of the Indian Appropriation

Expense of transporting deceased employees, etc.

David F. Day.
Reimbursement.

Yankton tribe
South Dakota.
Negotiation for land.

Puyallup Reservation,
Wash.
Post, p. 592.
Commissioner to superintend sale of lands, etc.
Post, p. 940.

Vol. 27, p. 633.

Uncompahgre Ute
Indians.
Allotment to.

Unallotted lands
open for location, etc.

Gilsonite, etc., lands
excepted.

Title to gilsonite,
etc., lands.

Extension of time
for payment to actual
settlers, etc.

Big Wind River, re-
pair of bridge.

Ormsby, Nev.
Reimbursement.

Homes for Absentee
Wyandottes.

Vol. 29, p. 344.
Vol. 28, p. 301.

Vol. 28, p. 908.

R. B. Armstrong,
payment to.

Digest of decisions,
etc., Indian affairs

CHAP. 372.—An Act To grant a right of way to the village of Flandreau, South Dakota.

June 2, 1898.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a right of way be, and hereby is, granted to the village of Flandreau, South Dakota, to extend a certain highway, known as Prospect street, through a certain tract of land owned by the Government of the United States and described as follows: One acre lot fronting the south line of the southeast quarter of section twenty-one, township one hundred and seven, range forty-eight, in Moody County, South Dakota, said lot running one hundred and twenty feet on the south line of said described land by three hundred and sixty-three feet deep, and the southeast corner thereof being one thousand and sixteen feet east of the southwest corner of the above-mentioned quarter section: *Provided*, That the fee of the land occupied by the street shall remain in the United States with reversion of the use and occupancy in event of the closing or abandonment of that portion of the street.

Approved, June 2, 1898.

Flandreau, S. Dak.,
granted right of way
for street through
Government tract.

Proviso.
Reversion to United
States, etc.

CHAP. 376.—An Act For the appointment of a commission to make allotments of lands in severalty to Indians upon the Uintah Indian Reservation in Utah, and to obtain the cession to the United States of all lands within said reservation not so allotted.

June 4, 1898.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is hereby authorized and directed to appoint a commission consisting of not more than three persons, who shall, with the consent of the Indians properly residing on the Uintah Indian Reservation in Utah, allot in severalty to the said Indians, and to such of the Uncompahgre Indians as may not be able to obtain allotments within the Uncompahgre Indian Reservation, agricultural and grazing lands as follows: To each head of a family, one-quarter of a section, with an additional quantity of grazing land not exceeding one-quarter of a section; to each single person over eighteen years of age, one-eighth of a section, with an additional quantity of grazing land not exceeding one-eighth of a section; to each orphan child under eighteen years of age, one-eighth of a section, with an additional quantity of grazing land not exceeding one-eighth of a section; to each other person under eighteen years of age born prior to such allotment, one-eighth of a section, with a like quantity of grazing land: *Provided*, That with the consent of said commission any adult Indian may select a less quantity of land, if more desirable on account of location.

All necessary surveys to enable said commission to complete the allotments shall be made under the direction of the General Land Office.

SEC. 2. That said commission shall also obtain, by the consent of a majority of the adult male Indians properly residing upon and having an interest in the said Uintah Indian Reservation, the cession to the United States of all the lands within said reservation not allotted or needed for allotment as aforesaid. The agreement for such cession shall be reported by said commission and become operative when ratified by Act of Congress; and thereupon such ceded lands shall be held in trust by the United States for the purpose of sale to citizens thereof: *Provided*, That the United States shall pay no sum or amount whatever for said lands so ceded. Said lands shall be sold in such manner and in such quantities and for such prices as may be determined by Congress: *Provided*, That the amounts so received shall, in the aggregate be sufficient to pay said Indians in full the amount agreed upon for said lands. All sums received from the sales of said lands shall be placed in the Treasury of the United States for said Indians, and shall

Uintah Indian Res-
ervation, Utah.
Commission to allot
lands to Indians.

Allotments.

Proviso.
Desirable sites.

Surveys.

Cession to United
States of unallotted
lands.

--ratification, etc.

Proviso.
Payment.
Said

Aggregate amount
from sales, etc.

be exclusively devoted to the use and benefit of the Indians having interests in the lands so ceded.

SEC. 3. That said commissioners shall receive six dollars per day each, and their actual and necessary traveling and incidental expenses while on duty, and to be allowed a clerk to be selected by them, whose compensation shall be fixed by said commissioners, subject to the approval of the Secretary of the Interior: *Provided*, That the cost of executing the provisions of this Act shall not exceed the sum of five thousand dollars, which sum is hereby appropriated for that purpose, out of any moneys in the Treasury not otherwise appropriated.

Approved, June 4, 1898.

J. no 4 1898.

CHAP. 377.—An Act Granting to the Washington Improvement and Development Company a right of way through the Colville Indian Reservation, in the State of Washington.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby granted to the Washington Improvement and Development Company, a corporation organized and existing under the laws of the State of Washington, and to its assigns, a right of way for its railway, telegraph, and telephone lines through the Colville Indian Reservation, in the State of Washington, beginning at a point on the Columbia River, near the mouth of the Sans Poil River; running thence in a northerly direction to a point in township thirty-seven north, of range thirty-two east, Willamette meridian; thence northerly to a point near the mouth of Curlew Creek; thence northerly to the international boundary line between British Columbia and the State of Washington; with the right to construct, use, and maintain such branches, spurs, switches, and side tracks as said company may deem necessary for the operation of said railway, together with all the rights granted to railroads by the Act of Congress entitled "An Act granting to railroads a right of way through the public lands of the United States," approved March third, eighteen hundred and seventy-five. Such right of way shall be fifty feet wide on each side of the center line of said railroad, and said company shall have the right to take from the lands adjacent to the line of said road material, stone, earth, and timber necessary for the construction of said railroad; also grounds adjacent to such right of way for station buildings and for necessary side tracks and switch tracks, not to exceed in amount two hundred feet in width and two thousand feet in length for each station, and to an extent not exceeding one station for each ten miles of road within the limits of said Colville Reservation.

SEC. 2. That it shall be the duty of the Secretary of the Interior to fix the amount of compensation to be paid to any Indian allottees whose lands may be taken by said company under this Act, and to provide the time and manner of payment thereof.

SEC. 3. That said company shall cause maps showing the route of its located lines through said Colville Reservation to be filed in the office of the Secretary of the Interior; and after the filing of said maps no claim for a subsequent settlement and improvement upon the right of way shown by said maps shall be valid as against said company: *Provided*, That when a map showing any portion of said railway company's located line is filed herein as provided for, said company shall commence grading said located line within six months thereafter, or such location shall be void, and said location shall be approved by the Secretary of the Interior in sections of twenty-five miles before the construction of any such section shall be begun.

SEC. 4. That said company is hereby authorized to enter upon said reservation for the purpose of surveying and locating its line of railroad.

SEC. 5. That the right herein granted shall be forfeited by said com-

populated suburbs on which there exists an open well, cistern, dangerous hole, or excavation be a nonresident of the District of Columbia, then after public notice by said Commissioners, given at least twice a week for one week in one newspaper published in the city of Washington, by advertisement, describing the property, specifying the nuisance to be abated, then if such nuisance shall not be abated within one week after the expiration of such notice, said Commissioners may cause the lot or parcel of land on which the nuisance exists to be secured by fences or otherwise inclosed, and the cost and expense thereof shall be assessed by said Commissioners as a tax against the property on which such nuisance exists, and the tax so assessed shall bear interest at the rate of ten per centum per annum until paid, and shall be carried on the regular tax rolls of said District and be collected in the manner provided for the collection of general taxes.

Approved, March 1, 1899.

March 1, 1899.

CHAP. 324.—An Act Making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June thirtieth, nineteen hundred, and for other purposes.

Indian Department appropriations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses of the Indian Department and in full compensation for all offices the salaries for which are specially provided for herein, for the service of the fiscal year ending June thirtieth, nineteen hundred, and fulfilling treaty stipulations for the various Indian tribes, namely:

CURRENT AND CONTINGENT EXPENSES.

Pay of agents at agencies.

For pay of fifty-six agents of Indian affairs at the following-named agencies, at the rates respectively indicated, namely:

At the Blackfeet Agency, Montana, one thousand eight hundred dollars;

At the Cherokee School, North Carolina: Additional compensation to superintendent of said school for performing the duties heretofore required of the agent at the Cherokee Agency, two hundred dollars;

At the Cheyenne and Arapahoe Agency, Oklahoma Territory, one thousand eight hundred dollars;

At the Cheyenne River Agency, South Dakota, one thousand seven hundred dollars;

At the Colorado River Agency, Arizona, one thousand five hundred dollars;

At the Colville Agency, Washington, one thousand five hundred dollars;

At the Crow Creek Agency, South Dakota, one thousand six hundred dollars;

At the Crow Agency, Montana, one thousand eight hundred dollars;

At the Devils Lake Agency, North Dakota, one thousand two hundred dollars;

At the Flathead Agency, Montana, one thousand five hundred dollars;

At the Fort Apache Agency, Arizona, one thousand five hundred dollars;

At the Fort Belknap Agency, Montana, one thousand five hundred dollars;

At the Fort Berthold Agency, North Dakota, one thousand five hundred dollars;

At the Fort Hall Agency, Idaho, one thousand five hundred dollars;

At the Fort Peck Agency, Montana, one thousand eight hundred dollars;

Nez Perce Reserva-
tion, Idaho.

For operating two portable steam sawmills on the Nez Perce Indian Reservation, Idaho, and for necessary repairs to the same, three thousand dollars.

Repairs to Govern-
ment bridge, Niobrara
River, Nebraska.

For the purpose of making necessary repairs on the Government bridge across the Niobrara River, near Niobrara, Nebraska, also one span of sixty feet over the back channel of the Niobrara River, and three spans of sixty feet each over the Bazile Creek, the sum of three thousand dollars, said sum to be expended under the direction of the Secretary of the Interior.

New York Agency.
Surveying and al-
lotting lands in sev-
eralty.
Vol. 24, p. 398.

For pay of physician, New York Agency, six hundred dollars.

To enable the President to cause, under the provisions of the Act of February eighth, eighteen hundred and eighty-seven, entitled "An Act to provide for the allotment of lands in severalty to Indians," such Indian reservations as in his judgment are advantageous for agricultural and grazing purposes to be surveyed or resurveyed, for the purposes of said Act, and to complete the allotment of the same, including the necessary clerical work incident thereto in the field and in the Office of Indian Affairs, and delivery of trust patents, so far as allotments shall have been selected under said Act, thirty thousand dollars.

Works of irrigation.

For construction of ditches and reservoirs, purchase and use of irrigating tools and appliances, and purchase of water rights on Indian reservations, in the discretion of the Secretary of the Interior and subject to his control, forty thousand dollars.

Surveys and allot-
ments.

For survey and subdivision of Indian reservations and of lands to be allotted to Indians, and to make allotments in severalty, to be expended by the Commissioner of Indian Affairs, under the direction of the Secretary of the Interior, twenty thousand dollars.

Puyallup Reserva-
tion, Wash.
Compensation of
commissioner to sell
lands.
Ante, p. 87.

For compensation of the commissioner authorized by the Indian appropriation Act approved June seventh, eighteen hundred and ninety-seven, to superintend the sale of land, and so forth, of the Puyallup Indian Reservation, Washington, who shall continue the work as therein provided, two thousand dollars.

Indian depredation
claims.
Transfer to Court of
Claims.
Vol. 26, p. 851.

For continuing the work of transferring the Indian depredation claims from the Office of Indian Affairs to the Court of Claims and making a record of the same, and for the proper care and custody of the papers and records relating thereto, under the provisions of the Act approved March third, eighteen hundred and ninety-one (Twenty-sixth Statutes at Large, page eight hundred and fifty-one), four thousand six hundred dollars.

Pueblo Indians,
New Mexico.
Special attorney for.

To enable the Secretary of the Interior to employ a special attorney for the Pueblo Indians of New Mexico, one thousand five hundred dollars.

Allotments reserva-
tion of Sioux Nation,
Dakota.
Vol. 25, p. 890.

To enable the President to cause, under the provisions of the Act of March second, eighteen hundred and eighty-nine, entitled "An Act to divide a portion of the reservation of the Sioux Nation of Indians in Dakota into separate reservations and to secure the relinquishment of the Indian title to the remainder, and for other purposes," to be allotted the land in said separate reservations as provided in said Act, including the necessary resurveys, ten thousand dollars.

Surveys, Cheyenne
River, etc., reserva-
tions, South Dakota.

For the survey of lands in the Cheyenne River, Pine Ridge, and Standing Rock Indian reservations, in South Dakota, and for examination in the field of the surveys, twenty-five thousand dollars, to be immediately available.

— clerical work etc.

For clerical work and stationery in the office of surveyor-general, required on surveys within the Cheyenne River, Pine Ridge, and Standing Rock Indian reservations, in South Dakota, three thousand two hundred dollars.

Approval of allot-
ments to Uncompah-
gre Ute Indians.

The Secretary of the Interior is hereby authorized, in his discretion, to approve eighty-three allotments made by the Uncompahgre commission to Uncompahgre Ute Indians, within the former Uncompahgre Indian Reservation in Utah, after the first day of April, eighteen hundred and ninety-eight, and to issue patents therefore in manner and

form as provided by existing law: *Provided*, That no allotment which conflicts with any entry or location under the Act approved June seventh, eighteen hundred and ninety-seven, declaring the unallotted lands of said reservation, except those containing gilsonite, asphalt, elaterite, or other like substances, open for entry and location on said date, shall be approved.

Proviso
— limitation.
Ante, p. 87.

That the Secretary of the Interior be, and he is hereby authorized, in his discretion, to grant rights of way for the construction and maintenance of dams, ditches, and canals, on or through the Uintah Indian Reservation in Utah, for the purpose of diverting and appropriating the waters of the streams in said reservation for useful purposes: *Provided*, That all such grants shall be subject at all times to the paramount rights of the Indians on said reservation to so much of said waters as may have been appropriated, or may hereafter be appropriated or needed by them for agricultural and domestic purposes; and it shall be the duty of the Secretary of the Interior to prescribe such rules and regulations as he may deem necessary to secure to the Indians the quantity of water needed for their present and prospective wants, and to otherwise protect the rights and interests of the Indians and the Indian service.

Uintah Reservation,
Utah.
Grant of water
rights in.

Proviso
Rights of Indians
paramount.

Regulations.

For the purchase of not to exceed one hundred acres of land, at a price not to exceed thirty dollars per acre, in the vicinity of Canton, in the State of South Dakota, and for the erection thereon of an asylum for insane Indians, said building to be constructed under the direction of the Secretary of the Interior, forty-five thousand dollars.

Canton, S. Dak.
Erection of Indian
insane asylum author-
ized at.

For the erection of suitable buildings, and for fencing, water supply, means of locomotion, and other things necessary to properly establish and conduct an agency at Leech Lake, Minnesota, fifteen thousand dollars, to be immediately available.

Leech Lake, Minn.
Agency established
at.

That the Indians of the Yakima Indian Reservation, to whom lands have been allotted under the laws of the United States, may lease their lands so allotted for agricultural purposes for a term not exceeding five years, under such rules and regulations as are or may be prescribed by the Secretary of the Interior, anything in the law now limiting the term to a shorter term notwithstanding.

Yakima Reserva-
tion.
Leases of agricul-
tural lands by Indians
authorized.

That the provision in the Indian appropriation Act approved July first, eighteen hundred and ninety-eight, relating to a water supply for irrigation purposes to be used on a portion of the reservation of the Southern Utes in Colorado, is hereby continued in force for and during the fiscal year nineteen hundred, and is hereby amended so as to read as follows:

Southern Ute Res-
ervation, Colo.

"That the Secretary of the Interior shall make investigation as to the practicability of providing a water supply for irrigation purposes, to be used on a portion of the reservation of the Southern Utes in Colorado, and he is authorized, in his discretion, to contract for, and to expend from the funds of said Southern Utes in the purchase of, perpetual water rights sufficient to irrigate not exceeding ten thousand acres on the western part of the Southern Ute Reservation, and for annual charges for maintenance of such water thereon, such amount and upon such terms and conditions as to him may seem just and reasonable, not exceeding one hundred and fifty thousand dollars for the purchase of such perpetual water rights, and not exceeding a maximum of fifty cents per acre per annum for the maintenance of water upon the land to be irrigated: *Provided*, That after such an investigation he shall find all the essential conditions relative to the water supply and to the perpetuity of its availability for use upon said lands, such as in his judgment will justify a contract for its perpetual use: *Provided*, That the Secretary of the Interior, upon making all such contracts, shall require from the person or persons entering into such contract a bond of indemnity, to be approved by him, for the faithful and continuous execution of such contract as provided therein."

Authority to pur-
chase water rights for
irrigation continued.
Ante, p. 593.

Proviso
Availability of sup-
ply, etc.

Indemnity bond,
contracts.

his bond, which bond must be at least equal in amount to the sum hereby appropriated: *And provided further*, That in all cases where the original claimants were adjudicated bankrupts the payments shall be made to the next of kin instead of to assignees in bankruptcy; but these provisions shall not apply to payments in the cases of the French spoliation claims, which shall be made as heretofore prescribed in this bill.

Next of kin instead of bankrupts' assignees.
French spoliation claims.

Wherever under this bill it is provided that a payment be made to an executor or an administrator, whether original or ancillary or de bonis non, and such executor or administrator is dead or no longer holds his office, the payment shall be made to the successor therein, his title to hold such office being established to the satisfaction of the Secretary of the Treasury.

Substitution in case of death of executor, etc.

Approved, May 27, 1902.

CHAP. 888.—An Act Making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June thirtieth, nineteen hundred and three, and for other purposes.

May 27, 1902.

[Public, No. 125.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses of the Indian Department and in full compensation for all offices the salaries for which are specially provided for herein, for the service of the fiscal year ending June thirtieth, nineteen hundred and three, and fulfilling treaty stipulations for the various Indian tribes, namely:

Indian Department appropriations.

CURRENT AND CONTINGENT EXPENSES.

For pay of forty-three agents of Indian affairs at the following-named agencies, at the rates respectively indicated, namely:

Pay of agents at agencies.

At the Blackfeet Agency, Montana, one thousand eight hundred dollars;

At the Cheyenne and Arapahoe Agency, Oklahoma Territory, one thousand eight hundred dollars;

At the Cheyenne River Agency, South Dakota, one thousand seven hundred dollars;

At the Colville Agency, Washington, one thousand five hundred dollars;

At the Crow Creek Agency, South Dakota, one thousand six hundred dollars;

At the Crow Agency, Montana, one thousand eight hundred dollars;

At the Devils Lake Agency, North Dakota, one thousand two hundred dollars;

At the Flathead Agency, Montana, one thousand five hundred dollars;

At the Fort Apache Agency, Arizona, one thousand five hundred dollars;

At the Fort Belknap Agency, Montana, one thousand five hundred dollars;

At the Fort Berthold Agency, North Dakota, one thousand five hundred dollars;

At the Fort Hall Agency, Idaho, one thousand five hundred dollars;

At the Fort Peck Agency, Montana, one thousand eight hundred dollars;

eight day of January, nineteen hundred and two, are hereby ratified and approved.

That so much of the Act approved March second, eighteen hundred and eighty-nine, entitled "An Act to provide for the allotment of land in severalty to United Peorias and Miamies in Indian Territory, and for other purposes," which inhibits the sale of their surplus lands for twenty-five years from said date, be, and the same is hereby, repealed: *Provided*, That before any distribution per capita shall be made of the proceeds of any sale thereof among said Western Miami Indians, there shall first be paid such sum or sums as the Secretary of the Interior may determine to be due for services rendered or expenses incurred by any of the delegates or officers of said Western Miami tribe since the thirty-first day of March, eighteen hundred and ninety.

United Peorias and Miamies, in l. Ter Sale of surplus lands, Vol. 25, p. 1014.

Proviso Payment for services.

To maintain at the city of Omaha, Nebraska, in the discretion of the Secretary of the Interior, a warehouse for the receipt, storage, and shipping of goods for the Indian Service, ten thousand dollars: *Provided*, That so much of the Act of June seventh, eighteen hundred and ninety-seven, entitled "An Act making appropriations for the current and contingent expenses and fulfilling treaty stipulations with the Indian tribes for the fiscal year ending June thirtieth, eighteen hundred and ninety-eight," as provides that the city of Omaha shall provide, equip, and furnish a building suitable for this purpose free of cost to the United States is hereby repealed.

Omaha, Nebr Warehouse.

Proviso,
Furnishing of building by city repealed Vol. 30, p. 76.

To maintain at the city of Saint Louis, Missouri, in the discretion of the Secretary of the Interior, a warehouse for the receipt, storage, and shipping of goods for the Indian service, ten thousand dollars.

Saint Louis, Mo. Warehouse.

That the accounting officers of the Treasury Department are hereby authorized and directed to allow in the settlement of the accounts of the disbursing officers in charge of the warehouses for Indian supplies, such sums as may have been disbursed by them during the fiscal years nineteen hundred and one and nineteen hundred and two, in payment of clerks appointed to clerkships in such warehouses and temporarily detailed for duty in the office of the Commissioner of Indian Affairs in Washington, District of Columbia.

Allowance for clerks temporarily detailed in Indian Office.

That the ten thousand dollars, or so much thereof as may be available, reserved by Act of March third, nineteen hundred and one, out of the amount appropriated for payment of the judgment in favor of the New York Indians, to pay expenses necessary to ascertain the beneficiaries of said judgment, may when necessary be used for the employment of the clerical force necessary therefor in the Office of Indian Affairs.

New York Indians, Clerical expenses Vol. 31, p. 1077.

That the Secretary of the Interior, with the consent thereto of the majority of the adult male Indians of the Uintah and the White River tribes of Ute Indians, to be ascertained as soon as practicable by an inspector, shall cause to be allotted to each head of a family eighty acres of agricultural land which can be irrigated and forty acres of such land to each other member of said tribes, said allotments to be made prior to October first, nineteen hundred and three, on which date all the unallotted lands within said reservation shall be restored to the public domain: *Provided*, That persons entering any of said land under the homestead law shall pay therefor at the rate of one dollar and twenty-five cents per acre: *And provided further*, That nothing herein contained shall impair the rights of any mineral lease which has been approved by the Secretary of the Interior, or any permit heretofore issued by direction of the Secretary of the Interior to negotiate with said Indians for a mineral lease; but any person or company having so obtained such approved mineral lease or such permit to negotiate with said Indians for a mineral lease on said reservation, pending such time and up to thirty days before said lands are

Uintah and White River Utes. Allotment of irrigable land. Publ. p. 744.

Unallotted lands restored to public domain.

Proviso,
Homestead entries.

Mineral leases.

restored to the public domain as aforesaid, shall have in lieu of such lease or permit the preferential right to locate under the mining laws not to exceed six hundred and forty acres of contiguous mineral land, except the Raven Mining Company, which may in lieu of its lease locate one hundred mining claims of the character of mineral mentioned in its lease; and the proceeds of the sale of the lands so restored to the public domain shall be applied, first, to the reimbursement of the United States for any moneys advanced to said Indians to carry into effect the foregoing provisions; and the remainder, under the direction of the Secretary of the Interior, shall be used for the benefit of said Indians. And the sum of seventy thousand and sixty-four dollars and forty-eight cents is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, to be paid to the Uintah and the White River tribes of Ute Indians, under the direction of the Secretary of the Interior, whenever a majority of the adult male Indians of said tribes shall have consented to the allotment of lands and the restoration of the unallotted lands within said reservation as herein provided.

Said item of seventy thousand and sixty-four dollars and forty-eight cents to be paid to the Uintah and White River Utes covers claims which these Indians have made on account of the allotment of lands on the Uintah Reservation to Uncompahgre Indians and for which the Government has received from said Uncompahgre Indians money aggregating sixty thousand and sixty-four dollars and forty-eight cents; and the remaining ten thousand dollars claimed by the Indians under an Act of Congress detaching a small part of the reservation on the east and under which Act the proceeds of the sale of the lands were to be applied for the benefit of the Indians.

For the resurvey of the outboundaries of the Devils Lake Indian Reservation and the resurvey of the interior, standard, meander and section lines (including the survey and subdivision of the old Fort Totten Military Reservation), and for the office work and field examination of said surveys and resurveys, twelve thousand dollars.

For support and maintenance of the asylum for insane Indians at Canton, South Dakota; for pay of employees; for transportation of insane Indians to and from said asylum; for general repairs and improvements, including necessary outbuildings, grading, fencing, and so forth; for incidental and all other expenses necessary to its proper conduct and management, twenty-five thousand dollars.

For the purchase of the right, title, and improvements of certain settlers within the external boundaries of the Navajo Indian Reservation in Arizona, as set out in the communication of the Secretary of the Interior to the President, dated January fifth, nineteen hundred, and printed in Senate Document Numbered Sixty-eight, of date of January tenth, nineteen hundred, forty-eight thousand dollars, to be used and expended under the direction and within the discretion of the Secretary of the Interior. And the Secretary of the Interior is authorized and empowered to purchase the right, title, and improvements separately of each and every one of the said persons named in the said communication of the Secretary of the Interior, at the prices separately agreed upon with the settlers therein named. And when so purchased the improvements and the lands upon which they are situated, in and near Tuba City, are hereby set apart for school or public purposes, as may be hereafter decided upon by the Secretary of the Interior, and until required to be used for such public or school purposes shall be used by the Indians under rules and regulations to be prescribed by the Secretary of the Interior: *Provided*, That the appraisement of Earnest A. Lee's property shall be three thousand seven hundred dollars: *Provided further*, That the Secretary of the Interior shall make no payment for any of said right, title, and

Raven Mining Company.

Application of proceeds from sales.

Test, p. 745.

Payments to Indians.
Vol. 1, 30, p. 87.
Test, p. 744.

Devils Lake Reservation.
Resurvey.

Canton, S. Dak.
Asylum for insane Indians.

Navajo Reservation Ariz.
Payment for rights, etc. of settlers.

Reservation for schools, etc.

Prof. Geo. Ernest A. Lee.
Valuation.

pounder boat howitzers, English (bronze), without carriages, relics of the Revolutionary war, now at the Allegheny Arsenal, Pittsburg, Pennsylvania, to be placed at the grave of General Daniel Morgan in such manner that their safety from unlawful removal will be assured and their return if called for by Congress.

Approved, June 6, 1902.

June 10, 1902.
[Pub. Res., No. 31.]

[No. 31.] Joint Resolution Supplementing and modifying certain provisions of the Indian appropriation Act for the year ending June thirtieth, nineteen hundred and three.

Indian appropriation act.
Corrections.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the Act "Making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June thirtieth, nineteen hundred and three, and for other purposes," are hereby supplemented and modified as follows:

Spokane Indian Reservation, Wash.

The Secretary of the Interior is directed to make allotments in severalty to the Indians of the Spokane Indian Reservation in the State of Washington, and upon the completion of such allotments the President shall by proclamation give public notice thereof, whereupon the lands in said reservation not allotted to Indians or used or reserved by the Government, or occupied for school purposes, shall be opened to exploration, location, occupation, and purchase under the mining laws.

Land not allotted open to purchase, etc.
Ante, p. 206.

Walker River Indian Reservation.
Nonirrigable grazing lands.
Ante, p. 200.

In addition to the allotment in severalty of lands in the Walker River Indian Reservation in the State of Nevada, the Secretary of the Interior shall, before any of said lands are opened to disposition under any public land law, select and set apart for the use in common of the Indians of that reservation such an amount of nonirrigable grazing lands therein at one or more places as will subserve the reasonable requirements of said Indians for the grazing of live stock.

Utah and White River Utes.
Nonirrigable grazing lands.
Ante, p. 263.

In addition to the allotments in severalty to the Utah and White River Utes of the Utah Indian Reservation in the State of Utah, the Secretary of the Interior shall, before any of said lands are opened to disposition under any public land law, select and set apart for the use in common of the Indians of that reservation such an amount of nonirrigable grazing lands therein at one or more places as will subserve the reasonable requirements of said Indians for the grazing of live stock.

Uncompahgre Indians.
Allotments confined to agricultural lands.

All allotments hereafter made to Uncompahgre Indians of lands in said Utah Indian Reservation shall be confined to agricultural land which can be irrigated, and shall be on the basis of eighty acres to each head of a family and forty acres to each other Indian, and no more. The grazing land selected and set apart as aforesaid in the Utah Indian Reservation for the use in common of the Indians of that reservation shall be equally open to the use of all Uncompahgre Indians receiving allotments in said reservation of the reduced area here named.

Grazing lands.
Ante, p. 264.

Allotments in severalty to Indians outside Indian Territory.
Vol. 24, p. 398.

Insofar as not otherwise specially provided, all allotments in severalty to Indians, outside of the Indian Territory, shall be made in conformity to the provisions of the Act approved February eighth, eighteen hundred and eighty-seven, entitled "An Act to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes," and other general Acts amendatory thereof or supplemental thereto, and shall be subject to all the restrictions and carry all the privileges incident to allotments made under said Act and other general Acts amendatory thereof or supplemental thereto.

Ante, p. 260.

The item of seventy thousand and sixty-four dollars and forty-eight cents appropriated by the Act which is hereby supplemented and modified, to be paid to the Uintah and White River tribes of Ute Indians in satisfaction of certain claims named in said Act, shall be paid to the Indians entitled thereto without awaiting their action upon the proposed allotment in severalty of lands in that reservation and the restoration of the surplus lands to the public domain.

Approved, June 19, 1902.

Uintah and White
River Utes.
Payment of claims.
Indr., p. 24.

[No. 32.] Joint Resolution Authorizing the Secretary of War to furnish condemned cannon for an equestrian statue of the late Major-General William J. Sewell, United States Volunteers.

June 23, 1902.
[Pub. Res., No. 32.]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized to deliver to the governor of the State of New Jersey, at Trenton, New Jersey, if the same can be done without detriment to the public service, such condemned bronze cannon as he may deem proper, not to exceed fifteen thousand pounds in weight, to be used in the erection of an equestrian statue to the memory of the late Major-General William J. Sewell, United States Volunteers.

Approved, June 23, 1902.

Statue of Maj. Gen.
William J. Sewell.
Condemned cannon
for.

[No. 33.] Joint Resolution Providing for the publication of two hundred thousand copies of the Special Report on the Diseases of the Horse.

June 24, 1902.
[Pub. Res., No. 33.]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there be printed and bound in cloth two hundred thousand copies of the Special Report on the Diseases of the Horse, the same to be first revised and brought up to date, under the supervision of the Secretary of Agriculture, one hundred and twenty-eight thousand copies for the use of the House of Representatives, sixty-four thousand copies for the use of the Senate, and eight thousand copies for the use of the Department of Agriculture.

Approved, June 24, 1902.

Diseases of the
Horse.
Publication of re-
vised special report
on.
Distribution.

[No. 34.] Joint Resolution Amending "An Act to increase the limit of cost of certain public buildings, to authorize the purchase of sites for public buildings, to authorize the erection and completion of public buildings, and for other purposes," approved June sixth, nineteen hundred and two.

June 24, 1902.
[Pub. Res., No. 34.]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the law (Public, Numbered One hundred and forty-six) entitled "An Act to increase the limit of cost of certain public buildings, to authorize the purchase of sites for public buildings, to authorize the erection and completion of public buildings, and for other purposes," approved June sixth, nineteen hundred and two, be amended so as to transpose the provision for a United States post-office and court-house at Scranton, Pennsylvania, from section four to section one; and the provisions, respectively, for the United States post-office at Moberly, Missouri, for United States post-office at Columbia, Missouri, and for the United States post-office and other governmental offices at Crookston, Minnesota, be transferred from section four to section five of said Act.

Approved, June 24, 1902.

Omnibus public
buildings act.
Corrections.

Ante, p. 310.

Scranton, Pa.

Moberly, Mo.

Columbia, Mo.

Crookston, Minn.

March 3, 1903.
[Public, No. 143.]

CHAP. 993.—An Act To establish a life-saving station at the mouth of Black River, at or near the city of Lorain, in the State of Ohio.

Black River, Ohio.
Life-saving station
established at Lorain.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized to establish a life-saving station at the mouth of Black River, at or near the city of Lorain, Ohio, at such point as the General Superintendent of the Life-Saving Service may recommend.

Approved, March 3, 1903.

March 3, 1903.
[Public, No. 144.]

CHAP. 994.—An Act Making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June thirtieth, nineteen hundred and four, and for other purposes.

Indian Department
appropriations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses of the Indian Department, and in full compensation for all offices the salaries for which are specially provided for herein, for the service of the fiscal year ending June thirtieth, nineteen hundred and four, and for fulfilling treaty stipulations with various Indian tribes, namely:

CURRENT AND CONTINGENT EXPENSES.

Payment of agents
at agencies.

For pay of thirty-three agents of Indian affairs at the following named agencies, at the rates respectively indicated, namely:

At the Blackfeet Agency, Montana, one thousand eight hundred dollars;

At the Cheyenne River Agency, South Dakota, one thousand seven hundred dollars;

At the Colville Agency, Washington, one thousand five hundred dollars;

At the Crow Creek Agency, South Dakota, one thousand six hundred dollars;

At the Crow Agency, Montana, one thousand eight hundred dollars;

At the Devils Lake Agency, North Dakota, one thousand two hundred dollars;

At the Flathead Agency, Montana, one thousand five hundred dollars;

At the Fort Belknap Agency, Montana, one thousand five hundred dollars;

At the Fort Berthold Agency, North Dakota, one thousand five hundred dollars;

At the Fort Hall Agency, Idaho, one thousand five hundred dollars;

At the Fort Peck Agency, Montana, one thousand eight hundred dollars;

At the Green Bay Agency, Wisconsin, one thousand eight hundred dollars;

At the Kiowa Agency, Oklahoma Territory, one thousand eight hundred dollars;

At the La Pointe Agency, Wisconsin, one thousand eight hundred dollars;

At the Leech Lake Agency, Minnesota, one thousand eight hundred dollars;

At the Lower Brule Agency, South Dakota, one thousand four hundred dollars;

Proviso. Obtaining consent to allotment	providing for the allotment of the Indians of Spokane Reservation in Washington, to be immediately available, one hundred and seventy-five thousand dollars: <i>Provided, however,</i> That the Secretary of the Interior shall forthwith send an inspector to obtain the consent of the Uintah and White River Ute Indians to an allotment of their lands as directed by the Act of May twenty-seventh, nineteen hundred and two, and if their consent, as therein provided, can not be obtained by June first, nineteen hundred and three, then the Secretary of the Interior shall cause to be allotted to each of said Uintah and White River Ute Indians the quantity and character of land named and described in said Act: <i>And provided further,</i> That the grazing lands to be set apart for the use of the Uintah, White River Utes, and other Indians, as provided by public resolution numbered thirty-one, of June nineteenth, nineteen hundred and two, be confined to the lands south of the Strawberry River on said Uintah Reservation, and shall not exceed two hundred and fifty thousand acres: <i>And provided further,</i> That the time for opening the unallotted lands to public entry on said Uintah Reservation, as provided by the Act of May twenty-seventh, nineteen hundred and two, be, and the same is hereby, extended to October first, nineteen hundred and four.
General Restriction	That in the lands within the former Uncompahgre Indian Reservation, in the State of Utah, containing gilsonite, asphaltum, elaterite, or other like substances, which were reserved from location and entry by provision in the Act of Congress entitled "An Act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the fiscal year ending June thirtieth, eighteen hundred and ninety-eight, and for other purposes," approved June seventh, eighteen hundred and ninety-seven, all discoveries and locations of any such mineral lands by qualified persons prior to January first, eighteen hundred and ninety-one, not previously discovered and located, who recorded notices of such discoveries and locations prior to January first, eighteen hundred and ninety-one, either in the State of Colorado, or in the office of the County recorder of Uintah County, Utah, shall have all the force and effect accorded by law to locations of mining claims upon the public domain. All such locations may hereafter be perfected, and patents shall be issued therefor upon compliance with the requirements of the mineral land laws, provided that the owners of such locations shall relocate their respective claims and record the same in the office of the County recorder of Uintah County, Utah, within ninety days after the passage of this Act. All locations of any such mineral lands made and recorded on or subsequent to January first, eighteen hundred and ninety-one, are hereby declared to be null and void; and the remainder of the lands heretofore reserved as aforesaid because of the mineral substances contained in them, in so far as the same may be within even numbered sections, shall be sold and disposed of in tracts not exceeding forty acres, or a quarter of a quarter of a section, in such manner and upon such terms and with such restrictions as may be prescribed in a proclamation of the President of the United States issued for that purpose not less than one hundred and twenty days after the passage of this Act, and not less than ninety days before the time of sale or disposal, and the balance of said lands and also all the mineral therein are hereby specifically reserved for future action of Congress.
Unallotted lands. Time of opening to settlement extended. Pub. Laws 1st sess. p. 20.	
Uncompahgre In- dian Reservation. Mining claims lo- cated on, prior to January 1, 1891, valid.	
Vol. 20, p. 87	
Patents to issue on relocation, etc., of claims.	
Claims located after January 1, 1891, in- valid.	
Sale of remainder of mineral lands	
Restrictions	
Balance of lands reserved.	
Weeminuchi Pies, Co. of Negotiations for re- lease of Mesa Verde authorized. Pub. p. 1057.	That the Secretary of the Interior be, and he is hereby, directed to negotiate with the Weeminuchi Ute tribe of Indians for the relinquishment of their right of occupancy to the United States to the tract of land known as the Mesa Verde—a part of the reservation of said tribe—situate in the county of Montezuma, in the State of Colorado; the said tract to include and cover the ruins and prehistoric remains situate therein. And the Secretary of the Interior shall
Report.	

Proviso. Limitation on ex- penditures.	shall have full power and authority to do any and all things by this Act required to be done for the carrying on of said celebration, including the detail of such persons as may be necessary for clerical and other services in connection with the work of said Commission from the Departments of which they are respectively at the head, and not in terms expressly entrusted to others, and all things necessary to the appropriate inauguration and successful holding of said celebration, whether herein expressly enumerated or not: <i>Provided, however,</i> That said Commission shall do no act which will require any expenditure of money in excess of the sums herein appropriated, and should it transcend this limitation the Government of the United States will not be bound by its acts.
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Approved, March 3, 1905.

March 3, 1905.
[H. R. 17474.]
[Public. No. 212.]

CHAP. 1479.—An Act Making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June thirtieth, nineteen hundred and six, and for other purposes.

Indian Department
appropriations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses of the Indian Department, and in full compensation for all offices the salaries for which are specially provided for herein, for the service of the fiscal year ending June thirtieth, nineteen hundred and six, and for fulfilling treaty stipulations with various Indian tribes, namely:

CURRENT AND CONTINGENT EXPENSES.

Pay of agents.

For pay of twenty-two agents of Indian affairs at the following-named agencies, at the rates respectively indicated, namely:

At the Blackfeet Agency, Montana, one thousand eight hundred dollars;
At the Cheyenne River Agency, South Dakota, one thousand eight hundred dollars;
At the Colville Agency, Washington, one thousand five hundred dollars;
At the Crow Creek Agency, South Dakota, one thousand six hundred dollars;
At the Crow Agency, Montana, one thousand eight hundred dollars;
At the Flathead Agency, Montana, one thousand five hundred dollars;
At the Kiowa Agency, Oklahoma Territory, one thousand eight hundred dollars;
At the La Pointe Agency, Wisconsin, one thousand eight hundred dollars;
At the Leech Lake Agency, Minnesota, one thousand eight hundred dollars;
At the Lower Brule Agency, South Dakota, one thousand four hundred dollars;
At the New York Agency, New York, one thousand dollars;
At the Osage Agency, Oklahoma Territory, one thousand eight hundred dollars;
At the Pine Ridge Agency, South Dakota, one thousand eight hundred dollars;
At the Rosebud Agency, South Dakota, one thousand eight hundred dollars;
At the San Carlos Agency, Arizona, one thousand eight hundred dollars;

Sioux Indian, in lieu of the trust patent heretofore issued to him for the lands in Nebraska, and all restrictions as to sale, encumbrance, or taxation of said lands are hereby removed.

To enable the Secretary of the Interior to purchase, for the use and benefit of the Mille Lac Indians, lot numbered four in section twenty-eight, township forty-three north, of range twenty-seven west of the fourth principal meridian, Minnesota, reserved by joint resolution of Congress of May twenty-seventh, eighteen hundred and ninety-eight, as a perpetual burial place for the Mille Lac Indians, five hundred dollars, or so much thereof as may be necessary, the person or persons holding the legal title to said lot to deed the same by warranty deed to the United States in trust for the use and benefit of the Mille Lac Indians.

That the lands now held by the various villages or pueblos of Pueblo Indians, or by individual members thereof, within Pueblo reservations or lands, in the Territory of New Mexico, and all personal property furnished said Indians by the United States, or used in cultivating said lands, and any cattle and sheep now possessed or that may hereafter be acquired by said Indians shall be free and exempt from taxation of any sort whatsoever, including taxes heretofore levied, if any, until Congress shall otherwise provide.

That the Secretary of the Treasury be, and he is hereby, authorized to return to the several purchasers of the pine timber from the lands of the ceded Chippewa Indian reservations, in the State of Minnesota, all or such parts of the moneys heretofore or hereafter severally deposited with their sealed bids, being twenty per centum of the amount of such bids, at sales held, or to be held, under the Act of January fourteenth, eighteen hundred and eighty-nine, as amended by Act of June twenty-seventh, nineteen hundred and two, as the Secretary of the Interior may determine such purchasers entitled to after the completion of their contracts of purchase.

That so much of the Act of March third, nineteen hundred and three, as provides that the grazing lands to be set apart for the use of the Uintah, White River Utes, and other Indians on the Uintah Reservation, as provided by public resolution numbered thirty-one, of June nineteenth, nineteen hundred and two, shall be confined to the lands south of the Strawberry River, be, and the same is hereby, repealed.

That the time for opening to public entry the unallotted lands on the Uintah Reservation in Utah having been fixed by law as the tenth day of March, nineteen hundred and five, it is hereby provided that the time for opening said reservation shall be extended to the first of September, nineteen hundred and five, unless the President shall determine that the same may be opened at an earlier date and that the manner of opening such lands for settlement and entry, and for disposing of the same, shall be as follows: That the said unallotted lands, excepting such tracts as may have been set aside as national forest reserve, and such mineral lands as were disposed of by the Act of Congress of May twenty-seventh, nineteen hundred and two, shall be disposed of under the general provisions of the homestead and town-site laws of the United States, and shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the manner in which these lands may be settled upon, occupied, and entered by persons entitled to make entry thereof; and no person shall be permitted to settle upon, occupy, or enter any of said lands, except as prescribed in said proclamation, until after the expiration of sixty days from the time when the same are thereby opened to settlement and entry: *Provided*, That the rights of honorably discharged Union soldiers and sailors of the late civil and the Spanish war or Philippine insurrection, as defined and described in sections twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes, as

Mille Lac Indians.
Purchase of burial
place for.

Vol. 30, p. 745.

Pueblo Indians, New
Mexico.
Land, etc., of, ex-
empt from taxation.

Chippewa Indian
Reservation, Minn.
Reimbursement to
purchasers of timber
on.

Vol. 25, p. 644.

Vol. 32, p. 263.

Uintah Reservation,
Utah.
Restriction on graz-
ing lands repealed.
Vol. 32, p. 908.
Vol. 32, p. 744.

Unallotted lands.
Time extended for
opening, to entry.
Ante, p. 207.

Vol. 32, p. 263.

Provisions.
Soldiers' and sailors'
rights.
R. S., sects. 2304, 2305,
p. 422.
Vol. 31, p. 847.

Sale of remaining
lands.

Proceeds of sale.
Vol. 32, p. 263.

Uintah Forest Re-
serve.
Additional land re-
served.
Vol. 29, p. 895.

Vol. 32, p. 263.

Reservoir site.

Proviso.
Proceeds of timber
sales.

Raven Mining Com-
pany.
Certificate of loca-
tion of claims, etc.

Vol. 32, p. 263.

Patent to.
Provisions.

Florence Mining
Company.
Certificate of loca-
tion of claim.

Patent to.

Right of ingress, etc.

amended by the Act of March first, nineteen hundred and one, shall not be abridged: *And provided further*, That all lands opened to settle-ment and entry under this Act remaining undisposed of at the expira-tion of five years from the taking effect of this Act shall be sold and disposed of for cash, under rules and regulations to be prescribed by the Secretary of the Interior, not more than six hundred and forty acres to any one person. The proceeds of the sale of such lands shall be applied as provided in the Act of Congress of May twenty-seventh, nineteen hundred and two, and the Acts amendatory thereof and sup-plemental thereto.

That before the opening of the Uintah Indian Reservation the Presi-dent is hereby authorized to set apart and reserve as an addition to the Uintah Forest Reserve, subject to the laws, rules, and regula-tions governing forest reserves, and subject to the mineral rights granted by the Act of Congress of May twenty-seventh, nineteen hun-dred and two, such portion of the lands within the Uintah Indian Res-ervation as he considers necessary, and he may also set apart and reserve any reservoir site or other lands necessary to conserve and protect the water supply for the Indians or for general agricultural development, and may confirm such rights to water thereon as have already accrued: *Provided*, That the proceeds from any timber on such addition as may with safety be sold prior to June thirtieth, nine-teen hundred and twenty, shall be paid to said Indians in accordance with the provisions of the Act opening the reservation.

That the Raven Mining Company shall, within sixty days from the passage of this Act, file for record, in the office of the recorder of deeds of the county in which its claims are located, a proper certifi-cate of each location; and it shall also, within the same time, file in the office of the Secretary of the Interior, in the city of Washington, said description and a map showing the locations made by it on the Uintah Reservation, Utah, under the Act of Congress of May twenty-seventh, nineteen hundred and two (Statutes at Large, volume thirty-two, page two hundred and sixty-three); and thereupon the Secretary of the Interior shall forthwith cause said locations to be inspected and report made, and if found to contain the character of mineral to which said company is entitled by the Act of Congress aforesaid and that each of said claims does not exceed the size of a regular mining claim, to wit, six hundred by fifteen hundred feet, he shall issue a patent in fee to the Raven Mining Company for each of said claims: *Provided further*, That the Florence Mining Company entitled under the Act of Con-gress approved May twenty-seventh, nineteen hundred and two, to the preferential right to locate not to exceed six hundred and forty acres of contiguous mineral land in the Uintah Reservation, Utah, shall within sixty days from the passage of this Act file in the office of the recorder of deeds of the county in which its location is made a proper description of its claim, and it shall within the same time file in the office of the Secretary of the Interior said description and a map showing the location made by it on the Uintah Reservation, Utah, and thereupon the Secretary of the Interior shall forthwith cause said location to be inspected and report thereon made, and if found not to exceed six hundred and forty acres he shall issue a patent in fee to said Company for the said land: *And provided further*, That the exten-sion of time for opening the unallotted lands to public entry herein granted shall not extend the time to make locations to any person or company heretofore given a preferential right, but the Raven Mining Company and the Florence Mining Company pending the time for opening to public entry the Uintah Reservation shall have the right of ingress and egress to and from their respective properties over and through said reservation.

west corner of said section; thence northerly to the south-east corner of Section four (4), said township; thence westerly to the south-west corner of said section; thence northerly to the south-east corner of Section seventeen (17), Township twenty-nine (29) North, Range ten (10) East; thence westerly to the south-west corner of Section eighteen (18), said township; thence northerly to the north-west corner of Section thirty-one (31), Township thirty (30) North, Range ten (10) East, the place of beginning; such of the above-named corners as have not been established by the official surveys being intended to be located at the points where such corners would fall in projecting the surveys in the directions indicated without allowing for any irregularities which may occur in actually extending the surveys;

Lands excepted.

Excepting from the force and effect of this proclamation all lands which may have been, prior to the date hereof, embraced in any legal entry or covered by any lawful filing duly of record in the proper United States Land Office, or upon which any valid settlement has been made pursuant to law, and the statutory period within which to make entry or filing of record has not expired: *Provided*, that this exception shall not continue to apply to any particular tract of land unless the entryman, settler or claimant continues to comply with the law under which the entry, filing or settlement was made.

Reserved from settlement.

Name.

Warning is hereby expressly given to all persons not to make settlement upon the lands reserved by this proclamation.

The reservation hereby established shall be known as The Diamond Mountain Forest Reserve.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this 14th day of July, in the year of our Lord one thousand nine hundred and five, and of [SEAL.] the Independence of the United States the one hundred and thirtieth.

THEODORE ROOSEVELT

By the President:

ALVEY A. ADEE

Acting Secretary of State.

July, 14, 1905.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Utah Forest Reserve, Utah. Preamble Vol. 20, p. 805. Vol. 26, p. 1103. Post, pp. 3180, 3207, 3240.

Vol. 33, p. 1070.

WHEREAS, the Uintah Forest Reserve, in the State of Utah, was established by proclamation dated February twenty-second, eighteen hundred and ninety-seven, under and by virtue of section twenty-four of the Act of Congress, approved March third, eighteen hundred and ninety-one, entitled, "An act to repeal timber-culture laws, and for other purposes", which provides, "That the President of the United States may, from time to time, set apart and reserve, in any State or Territory having public land bearing forests, in any part of the public lands wholly or in part covered with timber or undergrowth, whether of commercial value or not, as public reservations, and the President shall, by public proclamation, declare the establishment of such reservations and the limits thereof";

And whereas, it is provided by the Act of Congress, approved March third, nineteen hundred and five, entitled, "An Act making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian

tribes for the fiscal year ending June thirtieth, nineteen hundred and six, and for other purposes", that "before the opening of the Uintah Indian Reservation the President is hereby authorized to set apart and reserve as an addition to the Uintah Forest Reserve, subject to the laws, rules, and regulations governing forest reserves, and subject to the mineral rights granted by the Act of Congress of May twenty-seventh, nineteen hundred and two, such portion of the lands within the Uintah Indian Reservation as he considers necessary";

And whereas, it is considered necessary for the public good that certain lands in the Uintah Indian Reservation be set apart and reserved as an addition to the Uintah Forest Reserve;

Now, therefore, I, Theodore Roosevelt, President of the United States, by virtue of the power in me vested by the aforesaid act of Congress, approved March third, nineteen hundred and five, do hereby make known and proclaim that certain lands in the said Uintah Indian Reservation are hereby added to and made a part of the Uintah Forest Reserve, and that the boundary lines of the said forest reserve are, accordingly, so changed and extended as to read as follows:

Lands added to forest reserve from Uintah Indian Reservation.

Description.

Beginning at the north-west corner of Township one (1) South, Range seven (7) East, Salt Lake Meridian, Utah; thence easterly along the Base Line to the south-west corner of Township one (1) North, Range nine (9) East; thence northerly to the north-west corner of said township; thence easterly to the south-west corner of Township two (2) North, Range fourteen (14) East; thence northerly to the north-west corner of said township; thence easterly to the middle of the channel of the Green River; thence in a general south-easterly direction along the middle of the channel of said river to the range line between Ranges twenty-two (22) and twenty-three (23) East; thence southerly along the range line, allowing for the proper offset on the Base Line, to the south-east corner of Township two (2) South, Range twenty-two (22) East; thence westerly to the north-west corner of Township three (3) South, Range nineteen (19) East; thence southerly to the eastern boundary of the Uintah Indian Reservation; thence north-westerly along said Indian reservation boundary to the section line between Sections twenty-one (21) and twenty-eight (28), Township two (2) North, Range one (1) East, Uintah Meridian; thence westerly to the south-west corner of Section nineteen (19), Township two (2) North, Range one (1) West; thence northerly to the south-east corner of Section thirteen (13), Township two (2) North, Range two (2) West; thence westerly to the south-west corner of said section; thence northerly to the north-west corner of Section twelve (12), said township; thence westerly to the south-west corner of Section four (4), said township; thence northerly to the north-west corner of said section; thence westerly to the north-east corner of Section four (4), Township two (2) North, Range three (3) West; thence southerly to the south-east corner of Section thirty-three (33), said township; thence westerly to the north-east corner of Township one (1) North, Range six (6) West; thence southerly to the south-east corner of Section thirteen (13), said township; thence westerly to the south-west corner of said section; thence northerly to the north-west corner of said section; thence westerly to the south-west corner of Section eleven (11), said township; thence northerly to the north-west corner of said section; thence westerly to the north-east corner of Section eight (8), said township; thence southerly to the south-east corner of Section seventeen (17), said township; thence westerly to the north-east corner of Section twenty-one (21), Township one (1) North, Range nine (9) West; thence southerly to the south-east corner of said section;

Utah Forest
Reserve—Contin-
ued.

thence westerly to the south-west corner of Section nineteen (19), said township; thence southerly along the range line, allowing for the proper offset on the Base Line, to the north-west corner of Section eighteen (18), Township one (1) South, Range nine (9) West; thence easterly to the north-east corner of Section sixteen (16), Township one (1) South, Range eight (8) West; thence southerly to the south-east corner of Section thirty-three (33), said township; thence westerly to the north-east corner of Section four (4), Township two (2) South, Range ten (10) West; thence southerly to the south-east corner of Section sixteen (16), said township; thence westerly to the south-west corner of Section eighteen (18), said township; thence southerly to the south-east corner of Township two (2) South, Range eleven (11) West; thence westerly to the south-west corner of Section thirty-three (33), said township; thence northerly to the south-east corner of Section twenty (20), said township; thence westerly to the south-west corner of said section; thence northerly to the south-east corner of Section seven (7), said township; thence westerly to the south-west corner of said said section; thence northerly to the north-west corner of said township; thence westerly to the north-east corner of fractional Section four (4), Township two (2) South, Range twelve (12) West; thence southerly to the south-east corner of Section thirty-three (33), said township; thence easterly to the north-east corner of Section three (3), Township three (3) South, Range twelve (12) West; thence southerly to the south-east corner of said section; thence easterly to the north-east corner of Section eleven (11), said township; thence southerly to the south-east corner of said section; thence easterly to the north-east corner of Section thirteen (13), said township; thence southerly to the south-east corner of Township four (4) South, Range twelve (12) West; thence easterly to the south-west corner of Section thirty-three (33), Township four (4) South, Range eleven (11) West; thence northerly to the north-west corner of said section; thence easterly to the south-west corner of Section twenty-five (25), said township; thence northerly to the north-west corner of said section; thence easterly to the north-east corner of Section thirty (30), Township four (4) South, Range ten (10) West; thence southerly to the south-east corner of Section thirty-one (31), said township; thence easterly to the south-west corner of Township four (4) South, Range nine (9) West; thence northerly to the north-west corner of Section thirty (30), said township; thence easterly to the north-east corner of Section twenty-five (25), said township; thence southerly to the south-east corner of said township; thence easterly to the north-east corner of Section five (5), Township five (5) South, Range eight (8) West; thence southerly to the south-east corner of Section seventeen (17), said township; thence westerly to the south-west corner of Section eighteen (18), said township; thence southerly to the south-east corner of Section twenty-four (24), Township five (5) South, Range nine (9) West; thence westerly to the north-east corner of Section twenty-eight (28), said township; thence southerly to the south-east corner of said section; thence westerly to the south-west corner of Section twenty-nine (29), said township; thence southerly to the north-west corner of Section twenty-nine (29), Township six (6) South, Range nine (9) West; thence easterly to the south-west corner of Section twenty-one (21), Township six (6) South, Range eight (8) West; thence northerly to the north-west corner of Section four (4), said township; thence easterly to the eastern boundary of the Utah Indian Reservation; thence in a general south-westerly and north-westerly direction along said Indian reservation boundary to the range line between Ranges six (6) and seven (7) East, Salt

Lake Meridian; thence northerly to the north-west corner of Township one (1) South, Range seven (7) East, the place of beginning; such of the above-named corners as have not been established by the official surveys being intended to be located at the points where such corners would fall in projecting the surveys in the directions indicated without allowing for any irregularities which may occur in actually extending the surveys:

Excepting from the force and effect of this proclamation all lands which may have been, prior to the date hereof, embraced in any legal entry or covered by any lawful filing duly of record in the proper United States Land Office, or upon which any valid settlement has been made pursuant to law, and the statutory period within which to make entry or filing of record has not expired: *Provided*, that this exception shall not continue to apply to any particular tract of land unless the entryman, settler or claimant continues to comply with the law under which the entry, filing or settlement was made.

Warning is hereby expressly given to all persons not to make settlement upon the lands reserved by this proclamation.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this 14th day of July, in the year of our Lord one thousand nine hundred and five, and of the Independence of the United States the one hundred and thirtieth.

THEODORE ROOSEVELT

By the President:

ALVEY A. ADEE
Acting Secretary of State.

Lands excepted.

Reserved from
settlement.

River at a point between Columbus, Georgia, and Franklin, Georgia, in the State of Georgia, in accordance with the provisions of the Act entitled "An Act to regulate the construction of bridges over navigable waters," approved March twenty-third, nineteen hundred and six.

SEC. 2. That the right to alter, amend, or repeal this Act is hereby expressly reserved.

Approved, June 20, 1906.

CHAP. 3449.—An Act To authorize the Georgia, Florida and Alabama Railway Company to construct three railroad bridges across the Chattahoochee River, one at or near the city of Eufaula, Alabama, and two between said city of Eufaula and the city of Columbus, Georgia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Georgia, Florida and Alabama Railway Company, a corporation organized under the laws of the States of Florida and Georgia, its successors and assigns, be, and they are hereby, authorized to construct, maintain, and operate three railroad bridges and approaches thereto across the Chattahoochee River, one at or near the city of Eufaula, Alabama, and two between said city of Eufaula and the city of Columbus, Georgia, in accordance with the provisions of the Act entitled "An Act to regulate the construction of bridges over navigable waters," approved March twenty-third, nineteen hundred and six.

SEC. 2. That the right to alter, amend, or repeal this Act is hereby expressly reserved.

Approved, June 20, 1906.

CHAP. 3504.—An Act Making appropriations for the current and contingent expenses of the Indian Department, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June thirtieth, nineteen hundred and seven.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses of the Indian Department, for fulfilling treaty stipulations with various Indian tribes, and in full compensation for all offices the salaries for which are specially provided for herein for the service of the fiscal year ending June thirtieth, nineteen hundred and seven, namely:

I. GENERAL PROVISIONS.

PRESIDENT.

To enable the President to cause, under the provisions of the Act of February eighth, eighteen hundred and eighty-seven, entitled "An Act to provide for the allotment of lands in severalty to Indians," such Indian reservations as in his judgment are advantageous for agricultural and grazing purposes to be surveyed or resurveyed, for the purposes of said Act, and to complete the allotment of the same, including the necessary clerical work incident thereto in the field and in the Office of Indian Affairs, and delivery of trust patents, so far as allotments shall have been selected under said Act, twenty-five thousand dollars.

Ante, p. 84.

Amendment.

June 20, 1906.
[H. R. 19816.]

[Public, No. 257.]

Chattahoochee River,
Georgia, Florida
and Alabama Railway
Company may build
three bridges across,
in Alabama and Georgia.

Ante, p. 84.

Amendment.

June 21, 1906.
[H. R. 15331.]

[Public, No. 258.]

Indian Department
appropriations.

General provisions.

Under the President.

Allotments in severalty.
Vol. 24, p. 388.

self-supporting, to the annual charge shall be added an amount sufficient to pay back into the Treasury the cost of the work done, in their behalf, within thirty years, suitable deduction being made for the amounts received from disposal of the lands within the former Uintah Reservation.

Utes, confederated bands.

Carpenters, etc.
Vol. 13, p. 675.
Vol. 15, p. 623.

Food.
Vol. 15, p. 623

Employees.

Mining claims, Uncompahgre Reservation.
Vol. 32, p. 998,
amended.

Recording claims.

Proviso.
Prior patents validated.

Uintah Reservation.
Sale of timber from grazing lands.

Vol. 32, p. 744.

San Juan Pah-Ute.
Post, p. 1049.

Kaibab.
Support, etc.
Post, p. 1049.

Virginia.

Hampton school.

CONFEDERATED BANDS OF UTES. (Treaty.)

For pay of two carpenters, two millers, two farmers, and two blacksmiths, as per tenth article of treaty of October seventh, eighteen hundred and sixty-three, and fifteenth article of treaty of March second, eighteen hundred and sixty-eight, six thousand seven hundred and twenty dollars;

For pay of two teachers, as per same article of same treaty, one thousand eight hundred dollars;

For purchase of iron and steel and the necessary tools for blacksmith shop, per ninth article of same treaty, two hundred and twenty dollars;

For annual amount for the purchase of beef, mutton, wheat, flour, beans, and potatoes, or other necessary articles of food, as per twelfth article of same treaty, thirty thousand dollars;

For pay of employees at the several Ute agencies, fifteen thousand dollars;

In all, fifty-three thousand seven hundred and forty dollars.

That the Act entitled "An Act making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June thirtieth, nineteen hundred and four, and for other purposes," approved March third, nineteen hundred and three, be amended by adding after the words "Uintah County, Utah," in the thirty-fourth line of page nine hundred and ninety-eight of part one of volume thirty-two of the United States Statutes at Large, the words "or in the office of the county recorder of Wasatch County, Utah, or with the recorder of the mining district in which such mining claims are situate," and by adding after the words "Uintah County," in the fortieth line of page nine hundred and ninety-eight of part one of volume thirty-two of the United States Statutes at Large, the words "or Wasatch County"; *Provided, however,* That where patents have been issued prior to March third, nineteen hundred and three, upon locations made prior to January first, eighteen hundred and ninety-one, of mining claims within the said Uncompahgre Reservation, said patents are hereby validated and confirmed as against any claim or title of the United States.

That the Secretary of the Interior may authorize the Indians of the former Uintah Reservation, in the State of Utah, to cut and sell cedar and pine timber for posts or fuel from the tracts reserved for grazing purposes for said Indians under joint resolution of June nineteenth, nineteen hundred and two, in such quantities and upon such terms and under such rules and regulations as the said Secretary of the Interior may prescribe.

For the purchase of lands and sheep for the San Juan Pah-Ute Indians, five thousand dollars.

For the support and civilization of the Kaibab Indians in Utah, and for the purchase and acquiring of land and water, together with the necessary farming implements and machinery and live stock for their use, ten thousand five hundred dollars, to be immediately available.

VIRGINIA.

For the support and education of one hundred and twenty Indian pupils at the school at Hampton, Virginia, twenty thousand and forty dollars.

February 12, 1931.
[H. R. 6810]
[Public, No. 621.]

CHAP. 122.—An Act Authorizing the Secretary of the Navy to accept, without cost to the Government of the United States, a lighter-than-air base, near Sunnyvale, in the county of Santa Clara, State of California, and construct necessary improvements thereon.

Naval air station.
Acceptance, without
cost, of site near Sunny-
vale, Calif., for.
Post, p. 1877.

Description.

Construction of im-
provements.
Cost limitation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy is hereby authorized to accept on behalf of the United States, free from encumbrance and without cost to the United States, a title in fee simple to such lands as he may deem necessary or desirable near Sunnyvale, in the county of Santa Clara, State of California, particularly described in a report made to the Congress of the United States by the Secretary of the Navy on December 5, 1929, to wit: One thousand acres as a site for a naval air station, and construct thereon improvements necessary and proper for a lighter-than-air base, at a cost not to exceed \$5,000,000.

Approved, February 12, 1931.

February 13, 1931.
[S. 615]
[Public, No. 522.]

CHAP. 124.—An Act Authorizing an appropriation for payment to the Uintah, White River, and Uncompahgre Bands of Ute Indians in the State of Utah for certain lands, and for other purposes.

Uintah, etc., bands
of Ute Indians, Utah.
Payment to, for cer-
tain lands of, author-
ized.

Apportionment to
bands.

Proviso.
Value of remaining
lands to be ascertained.

Prompt report there-
of to Congress.

Proportionate share
credited to each band.

Interest allowed.
Administration of
fund.

Attorneys', etc., fees
allowed.

Proviso.
To be determined
upon a quantum me-
rit basis.

Limitation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby authorized to be appropriated the sum of \$1,217,221.25 for payment, at the rate of \$1.25 per acre, to the Uintah, White River, and Uncompahgre bands of Ute Indians in the State of Utah for nine hundred and seventy-three thousand seven hundred and seventy-seven acres of land belonging to such Indians being a part of the one million and ten thousand acres of land withdrawn from entry and sale by an Executive Order dated July 14, 1905, and included within the Uintah National Forest. Such sum shall be in full satisfaction of all claims of said Indians against the United States with respect to such lands and shall, when appropriated, be apportioned by the Secretary of the Interior among the said bands of Indians in such amounts as in his opinion the interests of said bands require: *Provided*, That as to the balance of said one million and ten thousand acres, amounting to thirty-six thousand two hundred and twenty-three acres, which has heretofore been classified as coal lands, the Secretary of the Interior shall proceed with all convenient speed to ascertain the value thereof and report his findings with respect thereto to the Congress not later than six months after the approval of this Act for such action as to the Congress shall seem appropriate. The amounts so apportioned, less the amount of the attorneys' fees determined as provided in section 2, shall be credited to such bands on the books of the Treasury Department, shall bear interest at the rate of 4 per centum per annum and shall be disposed of in the same manner as now or hereafter provided by law for the disposition of other funds belonging to said Indians.

SEC. 2. The Secretary of the Interior is authorized to determine and pay to any attorney, attorneys, or other persons who may have rendered or performed any actual service or necessarily expended any money in connection with the claim of said bands of Indians, upon which the amount herein authorized to be appropriated is based: *Provided*, That in determining the fees, as herein authorized, the Secretary of the Interior may consider all contracts or agreements entered into by said bands of Indians with any attorney, attorneys, or other persons, who may have represented them in the prosecution of their claim, and determine the compensation in each case upon a quantum meruit basis: *Provided further*, That the aggre-

gate of fees and expenses allowed shall not exceed 5 per centum of the amount herein authorized to be appropriated, to be paid out of the appropriation when made pursuant to this Act: *And provided further*, That before any money is paid to any attorney, attorneys, or person, they shall first execute and deliver to the Secretary of the Interior a satisfaction and a discharge in writing of all claims and demands for services rendered and expenses incurred for said bands of Indians in the matter of their said claim.

Approved, February 13, 1931.

CHAP. 125.—An Act To authorize the Secretary of the Interior to adjust payment of charges due on the Blackfeet Indian Irrigation Project, and for other purposes.

February 13, 1931.
[S. 1533]
[Public, No. 623.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That where there are accumulated unpaid assessments of irrigation charges, plus accrued penalty, against trust patent or fee patent tracts of land on the Blackfeet irrigation project, Montana, and where purchasers or owners of such tracts are financially unable to pay such amounts in a lump sum, the Secretary of the Interior is hereby authorized, in his discretion, to deliver irrigation water upon the execution of a suitable contract between such purchaser or owner and the United States, said contract providing for the payment of current annual assessments and annual payments of such percentage of the accumulated assessments as are deemed equitable. The period over which the payment of the accumulated assessments shall be spread shall be left to the discretion of the Secretary of the Interior, but in no case shall the period of payment of such accumulated assessments exceed ten years: *Provided*, That upon the execution of any such contracts herein provided for any penalties or interest which may have accrued against such accumulated assessments shall be canceled, and in lieu thereof the principal amount of the indebtedness shall draw interest at the rate of 6 per centum per annum from the date of the execution of the contract.

Approved, February 13, 1931.

CHAP. 126.—An Act Authorizing the cities of Omaha, Nebraska, and Council Bluffs, Iowa, and the counties of Douglas, Nebraska, and Pottawattamie, Iowa, to construct, maintain, and operate a toll or free bridge across the Missouri River at or near O'Hern Street, South Omaha, Nebraska.

February 13, 1931.
[S. 5768]
[Public, No. 624.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to promote interstate commerce, improve the postal service, and provide for military and other purposes, the city of Omaha, Nebraska, or Douglas County, Nebraska, or the city of Council Bluffs, or Pottawattamie County, Iowa, or any two or more thereof cooperating, are hereby authorized to construct, maintain, and operate a bridge and approaches thereto across the Missouri River, at a point suitable to the interests of navigation, at or near O'Hern Street, South Omaha, Nebraska, in accordance with the provisions of the Act entitled "An Act to regulate the construction of bridges over navigable waters," approved March 23, 1906, and subject to the conditions and limitations contained in this Act.

SEC. 2. There is hereby conferred upon said cities and counties, acting jointly, or any one or more of them separately, all such rights and powers to enter upon lands and to acquire, condemn,

Blackfeet Irrigation
Project, Montana.
Time extended for
paying assessments for
construction, mainte-
nance charges, etc.
Vol. 38, p. 583,
amended.

Suitable contract to
be executed.

Period of deferred
payments.

Proviso.
Contracts to substi-
tute for accumulated
assessments, etc.

Missouri River.
Omaha, Nebr., etc.,
may bridge, at South
Omaha.

Location.

Construction.
Vol. 34, p. 84.

Right to acquire real
estate, etc., for location,
approaches, etc.

Expenses of conveyance.

Deposit in Treasury.

Taxes.

Investments.

Interest.

under the jurisdiction of the Department of the Army or the Navy, the Department of the Navy, the Department of the Air Force or the Air Force, or the Treasury Department or the Coast Guard, respectively. The Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, or the Secretary of the Treasury, as the case may be, is further authorized to pay all necessary fees, charges, and expenses in connection with the conveyance or transfer of any such gift, devise, or bequest.

SEC. 2. Gifts or bequests of money or the proceeds from sales of other property received as gifts or devises pursuant to this Act shall be deposited in the Treasury of the United States under the title "United States Department of the Army General Gift Fund", "United States Department of the Navy General Gift Fund", "United States Department of the Air Force General Gift Fund", or "United States Coast Guard General Gift Fund", as the case may be, and any funds so deposited shall be subject to disbursement by the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, or the Secretary of the Treasury, as the case may be, for the benefit or use of the designated institution or organization, subject to the terms and conditions of any particular gift, devise, or bequest.

SEC. 3. For the purpose of Federal income, estate, and gift taxes, any gift, devise, or bequest of property, real or personal, accepted by the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, or the Secretary of the Treasury under authority of this Act shall be deemed to be a gift, devise, or bequest to or for the use of the United States.

SEC. 4. The Secretary of the Treasury is authorized, upon request of the Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, or, in his own discretion insofar as the Coast Guard general gift fund is concerned, as the case may be, to invest, reinvest, or retain investments of the money or securities composing the United States Department of the Army general gift fund, the United States Department of the Navy general gift fund, the United States Department of the Air Force general gift fund, or the United States Coast Guard general gift fund, as the case may be, or any part thereof deposited in the Treasury pursuant to section 2 of this Act, in securities of the United States of America or in securities guaranteed as to principal and interest by the United States of America. The interest and profits accruing from such securities shall be deposited to the credit of the United States Department of the Army general gift fund, the United States Department of the Navy general gift fund, the United States Department of the Air Force general gift fund, or the United States Coast Guard general gift fund, as the case may be, and will be available for disbursement as provided in section 2 of this Act.

Approved March 11, 1948.

[CHAPTER 108]

AN ACT

To define the exterior boundary of the Uintah and Ouray Indian Reservation in the State of Utah, and for other purposes.

March 11, 1948
[S. 1698]
[Public Law 440]

Uintah and Ouray
Reservation, Utah.
Exterior boundary.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the exterior boundary of the Uintah and Ouray Reservation in Grand and Uintah Counties, in the State of Utah, for the benefit of the Ute Indian Tribe of the Uintah and Ouray Reservation, is hereby extended to include the following area:

Beginning at the northwest corner of section 18, township 9 south, range 20 east, Salt Lake meridian, and running thence west to Green River;

Thence northeasterly up Green River approximately thirteen miles to a point where said river intersects the north line of section 11, township 8 south, range 20 east;

Thence east along said section line seven miles to the northeast corner of section 12, township 8 south, range 21 east, Salt Lake meridian;

Thence south along section line two miles to the northeast corner of section 24, township 8 south, range 21 east, Salt Lake meridian;

Thence east one mile to the northeast corner of section 19, township 8 south, range 22 east; thence south one mile to the southeast corner of said section 19; thence east two miles to the northeast corner of section 28;

Thence south six miles to the southeast corner of section 21, township 9 south, range 22 east, Salt Lake meridian;

Thence west eleven miles to the northeast corner of section 27, township 9 south, range 20 east, Salt Lake meridian;

Thence south eight miles to the southeast corner of section 34, township 10 south, range 20 east;

Thence west one and one-half miles to the south quarter corner of section 33;

Thence north one-half mile to the center of said section 33;

Thence east one-fourth of a mile to the southwest corner of the southeast quarter northeast quarter, said section 33;

Thence north one mile to the southeast corner of the southwest quarter northeast quarter, section 28;

Thence west one-quarter of a mile to the center of said section 28;

Thence south one-fourth of a mile to the southeast corner of the northeast quarter southwest quarter, said section 28;

Thence west one-fourth of a mile to the north rim of Big Pack Mountain;

Thence southwesterly along said rim approximately one and one-half miles to the north quarter corner of section 4, township 11 south, range 20 east;

Thence south three-fourths of a mile to the southeast corner of the northeast quarter southwest quarter, said section 4;

Thence west one-fourth of a mile to the northeast corner of the southwest quarter southwest quarter, said section 4;

Thence south one-half mile to the southeast corner of the northwest quarter northwest quarter, section 9;

Thence west one-half mile to the southwest corner of the northeast quarter northeast quarter, section 8;

Thence south three-fourths of a mile to the southeast corner of the southwest quarter southeast quarter, said section 8;

Thence west three-fourths of a mile to the northeast corner of section 18;

Thence south along section line to the southeast corner of said section 18;

Thence southerly along the west rim of Big Pack Mountain approximately three and three-fourths miles to the northeast corner of the southeast quarter southeast quarter, section 1, township 12 south, range 19 east, Salt Lake meridian;

Thence south along the township line five and one-fourth miles to the southeast corner of township 12 south, range 19 east;

Thence following the north and east boundary of Indian Allotment Numbered 353 Uncompahgre on Hill Creek to the southeast corner of said allotment;

Thence along the east line of township 13 south, range 19 east, approximately one and one-half miles to the north rim of East Squaw Canyon;

Thence southeasterly along said rim and up said canyon approximately three and three-fourths miles to the northeast corner of section 33, township 13 south, range 20 east;

Thence south along the section line 6 miles to the northeast corner of section 33, township 14 south, range 20 east;

Thence along the north rim of Flat Rock Mesa approximately six miles to the west quarter corner of section 24;

Thence easterly along the north rim of Ute Canyon approximately two miles to the north quarter corner of section 19, township 14 south, range 21 east, Salt Lake meridian;

Thence continuing along the north rim of said canyon approximately three miles to the center of section 21;

Thence south one mile to the center of section 28;

Thence west one-half mile to the west line of said section;

Thence south one and one-half miles to the southeast corner of section 32;

Thence west along the south line of said township two miles to the southwest corner of township 14 south, range 21 east;

Thence south six miles along the east line of township 15 south, range 20 east, to the southeast corner of said township;

Thence east one-half mile to the center of the north line of section 33, township 15½ south, range 21 east, Salt Lake meridian;

Thence south approximately one and one-half miles to the south quarter corner of section 4, township 16 south, range 21 east, Salt Lake meridian;

Thence west one-half mile to the southwest corner of said section 4;

Thence north one-fourth of a mile to the southeast corner of the northeast quarter southeast quarter, section 5;

Thence west one-half mile to the northeast corner of the southeast quarter southwest quarter, said section 5;

Thence south two and one-fourth miles to the south quarter corner of section 17;

Thence west one-half mile to the northeast corner of section 19;

Thence south one-half mile to the east quarter corner of said section 19;

Thence west one-half mile to the center of said section 19;

Thence south two and one-half miles to the south quarter corner of section 31;

Thence west one-half mile to the southwest corner of said township 16 south, range 21 east;

Thence south one and one-half miles to the east quarter corner of section 12, township 17 south, range 20 east, Salt Lake meridian;

Thence west one mile to the east quarter corner of section 11;

Thence south one-half mile to the southeast corner of said section 11;

Thence west one-half mile to the south quarter corner of said section 11;

Thence south one mile to the south quarter corner of section 14;

Thence west one-half mile to the southwest corner of said section 14;

Thence south one mile to the southeast corner of section 22;

Thence west one mile to the southwest corner of section 22;

Thence south approximately one and one-half miles to a point where the section line intersects the ridge between Supply Canyon and West Willow Creek;

Thence southwesterly along said ridge approximately two and one-half miles to the south quarter corner of section 8, township 18 south, range 20 east;

Thence south to the center of section 17;

Thence east one-half mile to the east quarter corner of said section 17;

Thence south to the southeast corner of said section 17;

Thence east approximately one-third of a mile to the top of the ridge between Clear Creek and West Willow Creek;

Thence southerly along the top of said ridge approximately three miles to the center of section 33;

Thence south one-half mile to the south quarter corner of said section 33;

Thence east one-fourth of a mile;

Thence south two miles to the southeast corner of the southwest quarter southeast quarter, section 9, township 19 south, range 20 east, Salt Lake meridian;

Thence east one-fourth of a mile to the northeast corner of section 16;

Thence south one mile to the southeast corner of said section 16;

Thence west three miles to the southwest corner of section 18;

Thence north 2 and three-fourths miles;

Thence west one-fourth of a mile;

Thence north one-fourth of a mile to the southwest corner of the southeast quarter southeast quarter, section 36, township 18 south, range 19 east;

Thence west three-fourths of a mile to the southwest corner of said section 36;

Thence northwesterly along the watershed divide of Book Cliff Mountains approximately twelve and one-half miles to the east quarter corner of section 6, township 18 south, range 19 east;

Thence southwesterly down Coal Creek Canyon approximately thirteen miles to Green River at a point approximately one-fourth of a mile west of the southeast corner of section 18, township 18 south, range 17 east, Salt Lake meridian;

Thence northerly up Green River to a point two and one-half miles north eighty degrees west from the southwest corner of section 7, township 12 south, range 19 east, Salt Lake meridian;

Thence southwesterly along the east rim of Main Tabyago Canyon approximately three and one-half miles;

Thence south five-eighths of a mile to the rim of the ridge;

Thence southwesterly across West Tabyago Canyon approximately one-half mile to the ridge;

Thence southwesterly along the north rim of the ridge approximately two and one-fourth miles to Rock House Canyon;

Thence southwesterly across Rock House Canyon approximately three-fourths of a mile to the top of knoll in Rock House Canyon;

Thence southeasterly along the south rim of Rock House Canyon approximately two and three-fourths miles to a point approximately one mile north of Gray Knoll;

Thence south one-half mile across bench to north rim of Big Canyon; thence southeasterly along the north rim of Big Canyon approximately two miles to the head of draw approximately one mile east of Gray Knoll;

Thence southeasterly one-fourth of a mile across bench to the north rim of Big Canyon Flat;

Thence southeasterly along north rim of Big Canyon Flat approximately three and one-fourth miles;

Thence east approximately one-fourth of a mile across bench to the north rim of Big Canyon Flat;

Thence southeasterly along the north rim of Big Canyon Flat approximately one mile;

Thence east approximately one-fourth of a mile across bench to north rim of Big Canyon Flat;

Thence southeasterly along the north rim of Big Canyon Flat approximately two and one-half miles;

Thence east approximately one-fourth of a mile across bench;
 Thence southeasterly along the north rim of Big Canyon Flat approximately one and three-fourths miles;
 Thence east to northwest corner of section 31, township 13 south, range 19 east, Salt Lake meridian;
 Thence east one mile;
 Thence south one mile;
 Thence east one mile to the southeast corner of section 32;
 Thence east on section line to CCC road;
 Thence northerly along said CCC road to the point where said road intersects rim of a mesa south of the north line of township 13 south, range 19 east, Salt Lake meridian;
 Thence northeasterly along said rim to the northeast corner of section 26 of said township and range;
 Thence north one-fourth of a mile;
 Thence east one-fourth of a mile;
 Thence north one-fourth of a mile to the northwest corner of the northeast quarter southwest quarter, section 24;
 Thence northerly along Hill Creek approximately one and one-fourth miles;
 Thence west one-fourth of a mile;
 Thence south one-fourth of a mile to the quarter corner between sections 13 and 14;
 Thence west two miles to the quarter corner between sections 15 and 16;
 Thence north along the section line one-half mile to the southeast corner of section 9 to the top of the ridge;
 All of the foregoing descriptions being in township 12 south, range 19 east, Salt Lake meridian;
 Thence northerly along the top of said ridge three and three-fourths miles to the center of section 28, township 11 south, range 19 east, Salt Lake meridian;
 Thence northwesterly to the CCC road;
 Thence northwesterly along said road to the top rim of Wild Horse Bench;
 Thence northeasterly along the top rim of Wild Horse Bench to the southeast corner of section 21;
 Thence north one mile;
 Thence diagonally northeast to the southwest corner of section 1;
 Thence northeasterly to the north quarter corner of said section 1;
 Thence east one-half mile to the intersection of CCC road at the northeast corner of said section 1;
 Thence northeasterly along said road approximately four miles to where said road intersects the east line of section 20, township 10 south, range 20 east, Salt Lake meridian;
 Thence north along said section line to the east quarter corner of section 8, township 10 south, range 20 east, Salt Lake meridian;
 Thence northeasterly to the northwest corner of Indian Allotment Numbered 328 Uncompahgre;
 Thence east to Willow Creek;
 Thence northwesterly down Willow Creek to the west line of section 4, township 10 south, range 20 east, Salt Lake meridian;
 Thence south along said section line to the southwest corner of section 4, said township and range;
 Thence west one mile;
 Thence north four miles to the northwest corner of section 20, township 9 south, range 20 east, Salt Lake meridian;
 Thence west one mile;
 Thence north one mile to point of beginning.

Valid rights and claims of individuals initiated under the public-land laws or otherwise involving any lands within said boundary shall not be affected by this Act.

The foregoing reservation shall not extend to or include deposits of uranium, thorium, and other materials reserved to the United States by section 5 (b) 7 of the Atomic Energy Act of 1946 (60 Stat. 755, 762), and shall include surface rights only in lands withdrawn by Executive Order Numbered 5327, dated April 15, 1930, as interpreted by Circular Numbered 1220, dated June 9, 1930 (53 L. D. 127), and more particularly described in a letter dated April 22, 1931, addressed to the register, Salt Lake City, Utah, by the Commissioner of the General Land Office.

There is hereby reserved, within the area above described, for the benefit and use of grazing-district permittees, a free right-of-way for trailing and watering purposes, subject to the usual and customary rules and regulations concerning stock driveways within grazing districts, the use of said right-of-way for watering purposes being limited to the usual and customary use of grazing-district permittees adjacent to said right-of-way, over the following lands:

(a) A stock driveway one mile wide along the north side of the White River Road running east from Ouray;

(b) A stock driveway described as beginning at the east quarter corner of section 3, township 9 south, range 20 east, Salt Lake meridian; running thence south eleven and one-half miles to the southeast corner of section 34, township 10 south, range 20 east, Salt Lake meridian; thence west to Willow Creek; thence northerly down Willow Creek to Black Bridge situated in the northwest quarter northeast quarter, section 22, township 10 south, range 20 east, Salt Lake meridian; thence northwesterly following the north and east boundaries of Indian allotments and tribal lands on east side of Willow Creek to the southwest corner of section 32, township 9 south, range 20 east, Salt Lake meridian; thence north five and one-fourth miles to Green River; thence up Green River and White River and on the south side of Indian allotments to point of beginning;

(c) A stock driveway one-half mile on each side of the road running southwesterly from what is known as Squaw Crossing on Willow Creek to the south rim of Wild Horse bench insofar as said road enters or crosses the said reservation;

(d) A stock driveway running from the head of Brown Canyon near the northeast corner of township 11 south, range 19 east, Salt Lake meridian, southeasterly down Brown Canyon across Hill Creek to Big Pack Mountain;

(e) A stock driveway one mile wide across Hill Creek immediately south of Rock House situated in the south half of section 13, township 12 south, range 19 east, Salt Lake meridian.

There is also reserved a watering right on Hill Creek between the Black Bridge and the Brown Ranch for the permittee using the public domain immediately west of said water place.

SEC. 2. The Secretary of the Interior is hereby authorized and directed to revoke the order dated September 26, 1933, temporarily withdrawing in aid of legislation certain lands in the former Uncompahgre Indian Reservation.

SEC. 3. The State of Utah may relinquish to the United States for the benefit of the Indians of the said Ute Reservation such tracts of school or other State-owned lands, surveyed or unsurveyed, within the said reserved area, as it may see fit, reserving to said State, if it so desires, such rights as it may possess to any minerals underlying such State lands as may be relinquished, and said State shall have the right to make selections in lieu thereof outside of the area hereby withdrawn, equal in value, as determined by the Secretary of the Interior, to the

Uranium, thorium, etc.

42 U. S. C. § 1905 (b) (7).
42 CFR 197 note.

Right-of-way for water purposes, etc.

Revocation of order.

Relinquishment of certain land by Utah.

lands relinquished, from the vacant, unappropriated, nonmineral public lands, within the State of Utah, such lieu selections to be made in the manner provided in the enabling Act pertaining to said State, except as to the payment of fees or commissions, which are hereby waived. The value of improvements owned by the State on lands relinquished to the United States for the benefit of said Indians shall be taken into consideration and full credit in the form of lands shall be allowed therefor. Any funds now or hereafter on deposit in the United States Treasury to the credit of the Ute Indian Tribe of the Uintah and Ouray Reservation, Utah, are hereby made available, and with the consent of the Uintah and Ouray Tribal Business Committee, may be expended for the purchase of privately owned and State-owned lands, including the improvements thereon, and improvements heretofore placed on public lands, together with water rights and water holes, within said boundary. The title to lands purchased under this authorization may, in the discretion of the Secretary of the Interior, be taken for the surface only. Title to any lands and rights acquired hereunder shall be taken in the name of the United States in trust for the Ute Indian Tribe of the Uintah and Ouray Reservation, Utah, and such lands or rights shall be exempt from State or local taxation.

Title to lands.

Judgments against
U. S.; offset.

SEC. 4. In any suit now pending or hereafter brought against the United States by the Ute Indian Tribe of the Uintah and Ouray Reservation, or by any one or more of the separate bands comprising said Ute Indian Tribe of the Uintah and Ouray Reservation, in the Court of Claims, the Indian Claims Commission or before any other tribunal, the United States may claim, as an offset against any judgment recovered therein, the fair market value as of the date of this Act of any interest in public lands conveyed by section 1 hereof, and any improvements thereon, and the fair market value as of the date of the transfer of title of the lands and improvements which may be relinquished by the State of Utah to the United States under section 3 of this Act. The validity and amount of any such claim shall be determined by the court, commission, or tribunal in conformity with the provisions of section 2 of the Act of August 13, 1946 (60 Stat. 1049, 1050).

25 U. S. C. § 70a.

Approved March 11, 1948.

[CHAPTER 109]

AN ACT

To authorize the establishment of the De Soto National Memorial, in the State of Florida, and for other purposes.

March 11, 1948
[H. R. 4028]
[Public Law 441]De Soto National
Memorial, Fla.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of establishing an appropriate memorial to Hernando De Soto, the Secretary of the Interior is authorized, in his discretion, to acquire on behalf of the United States, by donation, by purchase with donated funds when purchaseable at prices deemed by him reasonable, or by condemnation with donated funds, such lands and interests in land within an area of not to exceed twenty-five acres as he may select in the vicinity of Tampa Bay and Bradenton, Florida, and to construct thereon a suitable memorial structure, together with such connecting roads and public facilities as may be desirable.

SEC. 2. Upon a determination by the Secretary of the Interior that sufficient land has been acquired by the United States for the memorial, such property shall be established as the "De Soto National Memorial", and shall be administered by the Secretary of the Interior, through the National Park Service, for the benefit of the people of the United States. An order of the Secretary of the Interior, constituting notice of such establishment, shall be published in the Federal Register.

Publication of order
in Federal Register.

Public Law 671

CHAPTER 1009

AN ACT

August 27, 1954
[S. 3532]

To provide for the partition and distribution of the assets of the Ute Indian Tribe of the Uintah and Ouray Reservation in Utah between the mixed-blood and full-blood members thereof; and for the termination of Federal supervision over the property of the mixed-blood members of said tribe; to provide a development program for the full-blood members of said tribe; and for other purposes.

Ute Indians,
Utah.
Distribution of
assets.
Termination of
Federal supervi-
sion.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the purpose of this Act is to provide for the partition and distribution of the assets of the Ute Indian Tribe of the Uintah and Ouray Reservation in Utah between the mixed-blood and full-blood members thereof; for the termination of Federal supervision over the trust, and restricted property, of the mixed-blood members of said tribe; and for a development program for the full-blood members thereof, to assist them in preparing for termination of Federal supervision over their property.

Definitions.

SEC. 2. For the purposes of this Act—

(a) "Tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation, Utah.

(b) "Full-blood" means a member of the tribe who possesses one-half degree of Ute Indian blood and a total of Indian blood in excess of one-half, excepting those who become mixed-bloods by choice under the provisions of section 4 hereof.

(c) "Mixed-blood" means a member of the tribe who does not possess sufficient Indian or Ute Indian blood to fall within the full-blood class as herein defined, and those who become mixed-bloods by choice under the provisions of section 4 hereof.

(d) "Secretary" means Secretary of the Interior.

(e) "Superintendent" means the Superintendent of the Uintah and Ouray Reservation, Utah.

(f) "Asset" means any property of the tribe, real, personal or mixed, whether held by the tribe or by the United States in trust for the tribe, or subject to a restriction against alienation imposed by the United States.

(g) "Adult" means a member of the tribe who has attained the age of twenty-one years.

SEC. 3. For the purposes of this Act Ute Indian blood shall be determined in accordance with the constitution and bylaws of the tribe and all tribal ordinances in force and effect on the effective date of this Act.

SEC. 4. Any member of the tribe whose name appears on the proposed roll of full-blood members as provided in section 8 hereof and any person whose name is added to such proposed roll as the result of an appeal to the Secretary may apply to the Superintendent to become identified with and a part of the mixed-blood group: *Provided*, That such application is made within thirty days subsequent to the publication of such proposed roll or in the event of an appeal within thirty days subsequent to notification of the decision on said appeal: *And provided further*, That before such transfer is made upon the official rolls the Secretary shall first certify that, in his opinion, such change in status is not detrimental to the best interest of the person seeking such change.

SEC. 5. Effective on the date of publication of the final rolls as provided in section 8 hereof the tribe shall thereafter consist exclusively of full-blood members. Mixed-blood members shall have no interest therein except as otherwise provided in this Act.

SEC. 6. The mixed-blood members of the tribe, including those residing on and off the reservation, shall have the right to organize for their common welfare, and may adopt an appropriate constitution and bylaws which shall become effective when ratified by a majority

Mixed-blood
members.
Right to organ-
ize.

vote of the adult mixed-blood members of the tribe at a special election authorized and called by the Secretary under such rules and regulations as he may prescribe. Such constitution may provide for the selection of authorized representatives who shall have power to take any action that is required by this Act to be taken by the mixed-blood members as a group: *Provided*, That nothing herein contained shall be construed as requiring said mixed-blood Indians to so organize if such organization is by them deemed unnecessary. In the event no such approved organization is effected, any action taken by the adult mixed-blood members, by majority vote, whether in public meeting or by referendum, but in either event, after such notice as may be prescribed by the Secretary, shall be binding upon said mixed-blood members of the tribe for the purposes of this Act.

SEC. 7. The mixed-blood members of the tribe as a group may employ legal counsel to accomplish the legal work required on behalf of said group under the terms of this Act, and for any other purpose by them deemed necessary or desirable; the choice of counsel and fixing of fees to be subject to the approval of the Secretary until Federal supervision over all of the members of said group and their property is terminated in the manner provided in section 16 of this Act.

SEC. 8. The tribe shall have a period of thirty days from the date of enactment of this Act in which to prepare and submit to the Secretary a proposed roll of the full-blood members of the tribe, and a proposed roll of the mixed-blood members of the tribe, living on the date of enactment of this Act. If the tribe fails to submit such proposed rolls within the time specified in this Act, the Secretary shall prepare such proposed rolls for the tribe. Said proposed rolls shall be published in the Federal Register, and in a newspaper of general circulation in each of the counties of Uintah and Duchesne in the State of Utah. Any person claiming membership rights in the tribe, or an interest in its assets, or a representative of the Secretary on behalf of any such person, within sixty days from the date of publication in the Federal Register, or in either of the papers of general circulation, as hereinbefore provided, whichever publication date is last, may file an appeal with the Secretary contesting the inclusion or omission of the name of any person on or from either of such proposed rolls. The Secretary shall review such appeals and his decisions thereon shall be final and conclusive. After disposition of all such appeals to the Secretary, and after all transfers have been made pursuant to section 4 hereof the roll of the full-blood members of the tribe, and the roll of the mixed-blood members of the tribe, shall be published in the Federal Register, and such rolls shall be final for the purposes of this Act.

SEC. 9. The business committee of the tribe for and on behalf of the full-blood members of said tribe, and the duly authorized representatives for the mixed-blood members of said tribe, acting jointly, are hereby authorized, subject to the approval of the Secretary, to sell, exchange, dispose of, and convey to any purchaser deemed satisfactory to said committee and representatives, any or all of the lands of said tribe described as follows, to wit:

Description	Section	Acres
Township 1 North, Range 1 East: NW/4 SW/4.....	35	40.00
Township 1 North, Range 1 West: W/2 NE/4.....	20	80.00
SE/4 SW/4.....	21	40.00
NE/4 NW/4; N/2 SW/4.....	26	120.00
Total.....		240.00

Legal counsel.

Tribal roll.

Publication in FR.

Disposal of lands.

Description	Section	Acres
Township 2 North, Range 1 West: E/2 SW/4 NE/4.....	35	20.00
Township 1 South, Range 1 West: NW/4 SE/4.....	6	40.00
Lot 3.....	7	40.51
S/2 NE/4; NE/4 SE/4; W/2 SW/4 NW/4; W/2 NW/4 SW/4.....	18	160.00
E/2 SE/4.....	17	80.00
E/2 NE/4.....	20	80.00
SE/4 SE/4.....	29	40.00
Lot 2.....	30	40.28
SW/4 NW/4; SW/4 SE/4.....	35	80.00
SW/4 NE/4.....	36	40.00
Total.....		600.77
Township 1 South, Range 2 West: NW/4 SW/4.....	12	40.00
S/2 NE/4; N/2 SE/4.....	14	160.00
Total.....		200.00
Township 1 South, Range 3 West: SW/4 SE/4.....	8	40.00
NW/4 NW/4.....	16	40.00
Total.....		80.00
Township 1 South, Range 8 West: W/2 SW/4.....	3	80.00
NE/4 SE/4.....	4	40.00
All.....	6	721.00
All.....	6	685.40
NE/4 NW/4.....	10	40.00
NE/4 SW/4.....	12	40.00
SW/4 NW/4.....	14	40.00
Total.....		1,656.40
Township 2 South, Range 1 West: S/2 SW/4; SE/4 SE/4.....	1	120.00
Lot 3; SE/4 NW/4.....	4	81.28
Lots 1 & 2; E/2 NW/4; W/2 NE/4.....	7	237.78
NW/4 NW/4.....	12	40.00
SE/4 NE/4.....	13	40.00
Total.....		519.06
Township 2 South, Range 1 East: Lot 2; SE/4 NW/4.....	18	79.71
Township 2 South, Range 2 West: S/2 S/2.....	2	160.00
N/3.....	12	320.00
Total.....		480.00
Township 2 South, Range 3 West: E/2 NE/4.....	17	80.00
NE/4 SW/4; S/2 SE/4.....	19	120.00
NW/4 SW/4.....	29	40.00
Lots 1 & 2; E/2 NW/4; NE/4.....	30	216.36
Lot 2; SE/4 NW/4.....	31	78.40
Total.....		634.76
Township 2 South Range 4 West: SW/4 SW/4.....	1	40.00
SE/4 SW/4; SW/4 SE/4.....	9	80.00
W/2 NE/4.....	16	80.00
NE/4.....	28	160.00
N/2 SE/4.....	32	80.00
Lots 3 & 4; N/2 SW/4.....	33	167.31
NE/4 SW/4; N/2 SE/4; Lots 1 & 2.....	36	200.46
Total.....		807.77
Township 2 South Range 5 West: NW/4.....	10	160.00
NE/4 NE/4.....	29	40.00
N/2 NE/4; SE/4 NE/4.....	33	120.00
W/2 NW/4; SE/4 NW/4; N/2 SW/4; SE/4 SW/4; S/2 SE/4.....	34	320.00
NW/4 SE/4.....	36	40.00
Total.....		680.00
Township 2 South Range 7 West: NE/4 SE/4; SW/4 SW/4.....	13	80.00
NE/4 NE/4; SW/4 NW/4; N/2 SW/4; SE/4 SW/4; W/2 SE/4; SE/4 SE/4.....	14	320.00
W/2 NE/4; SE/4 NE/4.....	15	120.00
N/2 NE/4.....	23	80.00
N/2 N/2; SE/4 NE/4.....	24	200.00
Total.....		800.00

Description	Section	Acres
Township 2 South Range 8 West: SE/4 SW/4.....	31	40.00
Township 3 South Range 1 East: Lot 2; SE/4 NW/4, S/2 NE/4..... N/2 SW/4; SW/4 NE/4; NW/4 SE/4..... Lots 1, 2 & 3; NE/4 SW/4..... E/2 NE/4.....	7 16 18 30	158.12 160.00 155.35 80.00
Total.....		553.47
Township 3 South Range 2 East: Lot 8..... SW/4 SW/4..... SE/4 NW/4; E/2 SW/4.....	6 25 36	35.49 40.00 120.00
Total.....		195.49
Township 3 South Range 1 West: N/2 SE/4..... Lots 1-8, Incl..... Lots 1-4, Incl.; S/2 N/2..... Lots 1-4, Incl.; S/2 N/2..... W/2 SE/4.....	3 22 23 24 25	80.00 331.46 338.28 341.20 80.00
Total.....		1,170.94
Township 3 South Range 2 West: S/2 S/2..... S/2 SE/4..... SW/4 SW/4..... W/2 SW/4..... NE/4 SW/4; NW/4; SE/4..... SW/4 SW/4..... NE/4 NE/4..... N/2 NE/4..... N/2 NW/4..... W/2 SW/4.....	9 7 8 15 16 17 18 21 24 25	160.00 80.00 40.00 80.00 360.00 40.00 40.00 80.00 80.00 80.00
Total.....		1,040.00
Township 3 South Range 3 West: S/2 NW/4; NE/4 SW/4; N/2 SE/4..... NW/4 SE/4; N/2 SW/4..... All (Lot 1-4, Incl., E/2 W/2; E/2)..... SW/4 SW/4..... E/2 SW/4..... N/2 NW/4; S/2 NE/4; NE/4 SE/4..... W/2 NE/4; NE/4 NW/4; Lot 1.....	3 17 19 20 21 29 30	200.00 120.00 633.87 40.00 80.00 200.00 158.06
Total.....		1,432.53
Township 3 South Range 4 West: SW/4 NW/4..... S/2 SE/4; SE/4 SW/4; N/2 S/2..... NE/4; NE/4 NW/4..... SE/4 NE/4; W/2 NE/4; E/2 NW/4..... E/2 NE/4.....	11 13 24 26 30	40.00 280.00 200.00 200.00 80.00
Total.....		800.00
Township 3 South Range 5 West: Lots 1 & 2; SE/4 NE/4..... Lot 4; SW/4 NW/4; W/2 SW/4; SE/4 SW/4..... S/2 NE/4; N/2 SE/4..... NW/4; W/2 NE/4; NE/4 SW/4; NW/4 SE/4..... W/2 E/2..... W/2 E/2..... SW/4 NW/4; N/2 SW/4; SW/4 SW/4..... E/2 NE/4.....	3 2 5 11 12 13 21 34	118.86 199.58 160.00 320.00 160.00 160.00 160.00 80.00
Total.....		1,358.44
Township 3 South Range 7 West: Lots 3 & 4..... S/2..... NW/4 SW/4..... E/2 SE/4; SW/4 SE/4; W/2 NW/4..... E/2 NE/4; Lots 1 & 2.....	7 13 16 17 18	66.55 320.00 40.00 200.00 147.16
Total.....		773.71

Description	Section	Acres
Township 3 South Range 8 West: E/2; NW/4; E/2 SW/4..... S/2 S/2..... SW/4..... W/2 SE/4..... Lot 3; SE/4 NW/4; NE/4 SW/4..... SE/4..... NE/4..... S/2 NW/4..... NW/4; SE/4..... N/2 NE/4; SE/4 NE/4; SE/4; NE/4 NW/4..... NE/4; S/2..... S/2..... W/2 NE/4; S/2 NW/4.....	35 1 2 3 6 9 10 11 12 13 14 15 27	580.00 160.00 160.00 80.00 120.04 160.00 160.00 80.00 320.00 320.00 480.00 320.00 160.00
Total.....		3,080.04
Township 3 South Range 9 West: SW/4 NW/4; NW/4 SW/4.....	27	80.00
Township 4 South Range 2 West: Lot 3; NE/4 SW/4; N/2 SE/4..... E/2 NE/4; SW/4 NE/4..... E/2 NW/4; SW/4 NW/4..... SE/4 NE/4; NW/4; NW/4 SW/4; N/2 SE/4..... Lot 1..... SE/4; S/2 NE/4; S/2 SW/4..... S/2..... W/2 SW/4..... Lot 4..... Lots 1-4, Incl..... Lots 1-4, Incl..... Lots 1-6, Incl.; NE/4; E/2 NW/4.....	7 12 16 17 18 21 22 23 26 27 28 30	159.70 120.00 120.00 320.00 39.91 320.00 320.00 80.00 6.59 26.59 126.04 475.18
Total.....		2,114.89
Township 4 South, Range 3 West: Lot 10..... E/2 NE/4; NE/4 SE/4..... Lots 1 & 2; N/2 SE/4; SW/4; N/2..... All..... Lots 1-6, Incl.; NW/4 NW/4..... Lot 1.....	2 13 25 26 35 36	40.90 120.00 622.29 640.00 237.96 25.75
Total.....		1,686.90
Township 4 South, Range 4 West: S/2.....	25	320.00
Township 4 South, Range 8 West: N/2.....	29	320.00
Township 4 South, Range 9 West: S/2..... All..... All..... S/2..... N/2; N/2 S/2; SE/4 SE/4..... N/2..... N/2..... N/2..... Lots 3 & 4; E/2 SW/4; SE/4..... Lots 1 & 2; E/2 NW/4; NE/4.....	9 10 11 12 13 14 15 16 17 18 19	320.00 640.00 640.00 320.00 520.00 320.00 320.00 320.00 319.09 319.37
Total.....		4,358.46
Township 4 South Range 10 West: S/2..... SE/4 NW/4; E/2 SW/4..... NE/4 NW/4.....	13 17 20	320.00 120.00 40.00
Total.....		480.00
Township 5 South Range 7 West: S/2 SW/4.....	35	80.00
Township 5 South Range 9 West: SE/4 NW/4; S/2 NE/4..... SW/4 NW/4.....	34 35	120.00 40.00
Total.....		160.00
Township 6 South Range 9 West: SW/4 SE/4..... W/2 NE/4; NW/4 SE/4.....	5 8	40.00 120.00
Total.....		160.00
Grand total.....		27,043.34

All such sales, exchanges, or other dispositions shall be made upon such terms as said committee and said authorized representatives shall deem satisfactory and may be made pursuant to bids or at private sale, and all funds or other property derived from such sales, exchanges, or other dispositions shall be subject to the terms of this Act. Consent by the tribal business committee and said authorized representatives to the sale, exchange, or other disposal of the lands herein described shall relieve the United States of any liability resulting from such sale, exchange, or other disposition. The tribal business committee and said authorized representatives are further authorized to sell or dispose of tribal assigned lands to the assignees thereof under such terms and conditions as may be agreed upon by the said tribal business committee and said authorized representatives with the assignees, subject, however, to the approval of the Secretary.

SEC. 10. The tribal business committee representing the full-blood group, and the authorized representatives of the mixed-blood group, within sixty days after the publication of the final membership roll, as provided in section 8 hereof, shall commence a division of the assets of the tribe that are then susceptible to equitable and practicable distribution. Such division shall be by agreement between them subject to the approval of the Secretary. Said division shall be based upon the relative number of persons comprising the final membership roll of each group. After such division the rights or beneficial interests in tribal property of each mixed-blood person whose name appears on the roll shall constitute an undivided interest in and to such property which may be inherited or bequeathed, but shall be subject to alienation or encumbrance before the transfer of title to such tribal property only as provided herein. Any contract made in violation of this section shall be null and void. If said groups are unable to agree upon said division within a period of twelve months from the date of such commencement, or any authorized extension of said period granted within the discretion of the Secretary, the Secretary is authorized to partition the assets of the tribe in such manner as in his opinion will be equitable and fair to both groups. Such partition shall give rise to no cause of action against the United States and the costs of such partition shall be paid by the tribe. The Secretary is authorized to provide such reasonable assistance as may be requested by both groups, or by either group, in formulation and execution of a plan for the division of said assets, including necessary technical services of Government employees at Fort Duchesne, Utah, and arranging for necessary consultations with representatives of Federal departments and agencies, officials of the State of Utah, and political subdivisions thereof, and members of the tribe. All unadjudicated or unliquidated claims against the United States, all gas, oil, and mineral rights of every kind, and all other assets not susceptible to equitable and practicable distribution shall be managed jointly by the Tribal Business Committee and the authorized representatives of the mixed-blood group, subject to such supervision by the Secretary as is otherwise required by law, and the net proceeds therefrom after deducting the costs chargeable to such management shall first be divided between the full-blood and mixed-blood groups in direct proportion to the number of persons comprising the final membership roll of each group and without regard to the number of persons comprising each group at the time of the division of such proceeds.

SEC. 11. Notwithstanding any other provision of existing law, the tribal funds now on deposit or hereafter deposited in the United States Treasury to the credit of the tribe or either group thereof, shall be available for advance to the tribe or the respective groups; or for expenditure, for such purposes, including per capita payments,

Division of assets.

Availability of tribal funds.

as may be designated by the Tribal Business Committee for the full-blood members, and by the authorized agents of the mixed-blood members, and in either event subject to the approval of the Secretary: *Provided*, That the aggregate amount of the expenditures and advances authorized by this section for the mixed-blood group shall not exceed 50 per centum of the total funds of said mixed-blood group after such division, until said mixed-blood group has adopted a plan approved by the Secretary for termination of Federal supervision of said mixed-blood group, as required under section 13 hereof. After such termination of Federal supervision, per capita payments to the mixed-blood group shall not be subject to approval of the Secretary.

Per capita payments.

SEC. 12. Fifty per centum of all per capita payments to any individual mixed-blood member made pursuant to any division or distribution hereunder shall have deducted therefrom any sum or sums of money owed by such member to the tribe, whether due or to become due, unless in the opinion of the Secretary said debts are not adequately secured in which event the entire per capita payment shall be subject to such offset. Any other division, partition or distribution of property to any individual mixed-blood member made pursuant to this Act shall be subject to a mortgage to be made in favor of the tribe securing the payment of all sums of money owed by him to the tribe on the date of such division, partition or distribution to such individual mixed-blood member. The Secretary shall require the execution of any mortgage required hereunder as a condition to any such division, partition or distribution.

Mortgage requirements.

Distribution to individual members.

SEC. 13. After the adoption of a plan for the division of the assets between the two groups, a plan for distribution of the assets of the mixed-blood group to the individual members thereof shall be prepared and ratified by a majority of said group, within the period of six months from such adoption and presented to the Secretary for approval. The Secretary is authorized to provide such reasonable assistance, including necessary technical service of Government employees at Fort Duchesne, Utah, and arranging for necessary consultations with representatives of Federal departments and agencies, officials of the State of Utah and political subdivisions thereof, as may be required by the mixed-blood group in the preparation of such plan.

Plan.

The plan for division of the assets among the members of the mixed-blood group may include:

(1) Complete disposition of all cash assets of said group, reserving, however, sufficient funds to cover—

(i) the proportionate share of said mixed-blood group in and to all expenses incurred in effecting the purposes of this Act, including, but not limited to, the necessary expense incurred under sections 13 and 14 of this Act;

(ii) the just and proportionate share of the mixed-bloods in the expense incurred in the prosecution of the claims of the tribe, or the bands thereof, against the United States; and

(iii) the determinable and estimated administrative costs and expenses of any mixed-blood organization authorized by this Act, including lawful and reasonable salaries and fees of authorized agents, officers and employees of said mixed-blood group.

(2) Partition of the lands of the mixed-blood group, excepting all gas, oil, and mineral rights, to corporations, partnerships, or other legal entities, and to trustees, and the individual members of said groups, quality and quantity relatively considered, according to the respective rights and interests of the parties, located so as to embrace, as far as practicable, any improvements lawfully made by the person

or persons receiving such land. The value of the improvements made, under a valid lease or assignment from the tribe, shall be excluded from the valuation in making allotments to the lessee or assignee, and the land must be valued without regard to such improvements unless the lease or assignment, under which said improvements were made, provided that such improvements should become the property of the tribe. In the making of any partition due consideration shall be given to all of the rights and interests of the person or persons receiving the property, and all of the rights and interests of the other members of the tribe. Two or more of the members of said mixed-blood group may obtain their share of property as tenants in common, as joint tenants, or in any other lawful manner when such members agree among themselves as to the manner in which they desire to receive such title. When it appears that an equitable partition cannot be made among the members of said mixed-blood group without prejudice to the rights and interests of some of them, and yet a partition is directed by the group, the members of said group may voluntarily determine compensation to be made by one party to another on account of the inequity. In all cases where equity is agreed upon by the members of said mixed-blood group, such compensatory adjustment among the parties, according to the principles of equity, must be approved by the Secretary. In the event of a failure to agree upon an equitable compensatory adjustment among the parties the Secretary shall make such adjustment and his decision shall be final.

(3) Organization of corporations for the grazing of livestock, handling of water and water rights, and the shares therein may be issued to the members of said group in proportion to their interests in the assets of such corporations. When, in the opinion of said mixed-blood group, it is to the best interest of said group to transfer a portion of the assets of said group to a corporation or other legal entity for any purpose, the Secretary is authorized to make such transfer.

(4) A transfer of assets to one or more trustees designated by said group who shall hold title to all or any part of the property of said group for management or liquidation purposes under terms and conditions prescribed by said mixed-blood group. The Secretary is authorized to make such transfer, and approve the trustees, and the terms and conditions of the trust.

(5) Sale of any portion of the assets of said group subject to the approval of the Secretary. In addition to the sales herein otherwise authorized, authority is granted to the authorized representatives of said group to sell any property of said group when, in the opinion of the majority of said mixed-blood group, a practicable partition cannot be made, or for any other reason it is deemed to the best interests of the group, and the proceeds of such sales shall be distributed equitably among the members of said mixed-blood group; after deducting reasonable cost of sale and distribution.

SEC. 14. In the event all the tribal assets, susceptible to equitable and practicable distribution, distributed to the mixed-blood group under the provisions of section 10 hereof, are not, within seven years from the date of enactment of this Act, distributed to the individual mixed-blood members as contemplated in the plan to be adopted in accordance with the provisions of section 13 hereof, so as to effectively terminate Federal supervision over said assets, then the Secretary shall proceed to make such distribution in a manner, in his discretion, deemed fair and equitable to all members of said group, or convey such assets to a trustee for liquidation and distribution of the net proceeds, or convey such assets to the persons entitled thereto as tenants in common.

Disposal of tribal assets by individual member.

SEC. 15. Any member of the mixed-blood group may dispose of his interest in the tribal assets prior to termination of Federal supervision, subject to the approval of the Secretary. In the event a member of the mixed-blood group determines to dispose of his interest in any of said real property at any time within ten years from the date of enactment of this Act, he shall first offer it to the members of the tribe, and no sale of any interest, prior to termination of Federal supervision, shall be authorized without such offer to said members of the tribe in such form as may be approved by the Secretary. After termination of Federal supervision the requirement of such offer, in form to be approved by the Secretary, shall be a covenant to run with the land for said ten-year period, and shall be expressly provided in any patent or deed issued prior to the expiration of said period.

Sales restrictions, etc. Removal.

SEC. 16. (a) When any mixed-blood member of the tribe has received his distributive share of the tribal assets distributed to the mixed-blood group under the provisions of section 10 hereof, whether such distribution is made in part or in whole to a corporation, partnership, or trusteeship in which he is interested, or otherwise, the Secretary is authorized and directed to immediately transfer to him unrestricted control of all other property held in trust for such mixed-blood member by the United States, and shall further remove all restrictions on the sale or encumbrance of trust or restricted property owned by such member of the tribe, and Federal supervision of such member and his property shall thereby be terminated, except as to his remaining interest in tribal property in the form of any unadjudicated or unliquidated claims against the United States, all gas, oil, and mineral rights of every kind, and all other tribal assets not susceptible to equitable and practicable distribution, all of which shall remain subject to the terms of this Act, notwithstanding anything herein contained to the contrary.

(b) Prior to the removal of restrictions in accordance with the provisions of subsection (a) hereof on land owned by more than one person, the Secretary may—

Partition.

(1) upon request of any of the owners, partition the land and issue to each owner an unrestricted patent or deed for his individual share, unless such owner is a full-blood member of the tribe or other Indian who owns trust or restricted property, in which event a trust patent or restricted deed shall be issued and such trust may be terminated or such restrictions may be removed when the Secretary determines that the need therefor no longer exists;

Sale.

(2) upon request of any of the owners and a finding by the Secretary that partition of all or any part of the land is not practicable, cause all or any part of the land to be sold at not less than the appraised value thereof and distribute the proceeds of sale to the owners: *Provided*, That before a sale any one or more of the owners may elect to purchase the other interests in the land, or the tribe may elect to purchase the entire interest in the land, at not less than the appraised value thereof.

Taxes.

SEC. 17. No distribution of the assets made under the provisions of this Act shall be subject to any Federal or State income tax: *Provided*, That so much of any cash distribution made hereunder as consists of a share of any interest earned on funds deposited in the Treasury of the United States shall not by virtue of this Act be exempt from individual income tax in the hands of the recipients for the year in which paid. Property distributed to the mixed-blood group pursuant to the terms of this Act shall be exempt from property taxes for a period of seven years from the date of enactment of this Act, unless the original distributee parts with title thereto, either by deed, descent, succession, foreclosure of mortgage, sheriff's sale or other conveyance: *Provided*,

That the mortgaging, hypothecation, granting of a right-of-way, or other similar encumbrance of said property shall not be construed as a conveyance subjecting said property to taxation under the provisions of this section. After seven years from the date of enactment of this Act, all property distributed to the mixed-blood members of the tribe under the provisions of this Act, and all income derived therefrom by the individual, corporation, or other legal entity, shall be subject to the same taxes, State and Federal, as in the case of non-Indians; except that any valuation for purposes of Federal income tax on gains or losses shall take as the basis of the particular taxpayer the value of the property on the date title is transferred by the United States pursuant to this Act.

SEC. 18. The laws of the United States with respect to probate of wills, determination of heirship, and the administration of estates shall apply to the individual trust property of mixed-blood members of the tribe until Federal supervision is terminated. Thereafter, the laws of the several States, Territories, possessions, and the District of Columbia within which such mixed-blood members reside at the time of their death shall apply.

SEC. 19. Nothing in this Act shall affect any claim heretofore filed against the United States by the tribe, or the individual bands comprising the tribe.

SEC. 20. Nothing in this Act shall abrogate any valid lease, permit, license, right-of-way, lien, or other contract heretofore approved.

SEC. 21. Nothing in this Act shall abrogate any water rights of the tribe or its members.

SEC. 22. For the purposes of this Act, the Secretary shall protect the rights of members of the tribe who are minors, non compos mentis, or, in the opinion of the Secretary, in need of assistance in conducting their affairs, by such means as he may deem adequate, but appointment of guardians pursuant to State laws, in any case, shall not be required until Federal supervision has terminated.

SEC. 23. Upon removal of Federal restrictions on the property of each individual mixed-blood member of the tribe, the Secretary shall publish in the Federal Register a proclamation declaring that the Federal trust relationship to such individual is terminated. Thereafter, such individual shall not be entitled to any of the services performed for Indians because of his status as an Indian. All statutes of the United States which affect Indians because of their status as Indians shall no longer be applicable to such member over which supervision has been terminated, and the laws of the several States shall apply to such member in the same manner as they apply to other citizens within their jurisdiction.

SEC. 24. Within three months after the date of enactment of this Act, the business committee of the tribe representing the full-blood group thereof shall present to the Secretary a development program calculated to assist in making the tribe and the members thereof self-supporting, without any special Government assistance, with a view of eventually terminating all Federal supervision of the tribe and its members. The tribal business committee, representing the full-blood group shall, through the Secretary of the Interior, make a full and complete annual progress report to the Congress of its activities, and of the expenditures authorized under this Act.

SEC. 25. Nothing in this Act shall affect the status of the members of the tribe as citizens of the United States.

SEC. 26. The Secretary shall have authority to execute such patents, deeds, assignments, releases, certificates, contracts, and other instruments, as may be necessary or appropriate to carry out the provisions

Probation of wills, etc.

Claims.

Leases, permits, etc.

Water rights.

Guardians for minors, etc.

Federal trust termination proclamation. Publication in F.R.

Development program.

Report to Congress.

Citizenship status.

Patents, deeds, etc.

Rules and regulations.

Agreements.

Separability.

of this Act, or to establish a marketable and recordable title to any property disposed of pursuant to this Act.

SEC. 27. The Secretary is authorized to issue rules and regulations necessary to effectuate the purposes of this Act, and may, in his discretion, provide for tribal or group referenda on matters pertaining to management or disposition of tribal or group assets.

SEC. 28. Whenever any action pursuant to the provisions of this Act requires the agreement of the mixed-blood and full-blood groups and such agreement cannot be reached, the Secretary is authorized to proceed in any manner deemed by him to be in the best interests of both groups.

SEC. 29. All Acts, or parts of Acts, inconsistent with this Act are hereby repealed insofar as they affect the tribe or its members.

SEC. 30. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

Approved August 27, 1954.

Public Law 672

CHAPTER 1010

AN ACT

To increase the retired pay of certain members of the former Lighthouse Service.

August 27, 1954
[R. R. 1843]

Lighthouse Service.
Retired pay.
40 Stat. 608.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the annual rate of retired pay received by any person who was retired on or before June 30, 1953, under section 6 of the Act of June 20, 1918, as amended and supplemented (33 U. S. C., secs. 763-765), shall be increased, effective on the first day of the calendar month following enactment of this Act, by 15 per centum or \$264, whichever is the lesser: *Provided*, That no retired pay shall be increased to an amount in excess of \$2,160 by reason of this Act: *And provided further*, That the increases provided herein shall terminate, without subsequent resumption, on June 30, 1955.

Approved August 27, 1954.

Public Law 673

CHAPTER 1011

AN ACT

To authorize a \$50 per capita payment to members of the Red Lake Band of Chippewa Indians from the proceeds of the sale of timber and lumber on the Red Lake Reservation.

August 27, 1954
[R. R. 3419]

Chippewa Indians.
Per capita payment to Red Lake Band.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized to withdraw as much as may be necessary from the fund on deposit in the Treasury of the United States arising from the proceeds of the sale of timber and lumber within the Red Lake Reservation in Minnesota, according to the provisions of the Act of May 18, 1916 (39 Stat. 137), to the credit of the Red Lake Indians in Minnesota, and to pay therefrom \$50 to each member of the Red Lake Band of Chippewa Indians of Minnesota who is living at the date of enactment of this Act. Such payment shall be made in two installments of \$25 each, the first to be made within thirty days of ratification by the Red Lake Band of Chippewa Indians of Minnesota as provided for in section 2 of this Act, the second installment ninety days thereafter, and under such other rules and regulations as the Secretary of the Interior may prescribe.

APPENDIX B

MEMORABILIA

1. George A. Gutches. General Report: Care and Protection of Timber on the Uintah Indian Reservation, Wasatch and Uintah Counties, Utah. April, 1910. 35039-10-339, Uintah and Ouray, Central Classified Files, Record Group 75, National Archives.
2. Joe A. Wagner. Uintah and Ouray Reservation Fire Control Plan, Fort Duchesne, Utah. April 6, 1942. 15763-42-339, Uintah and Ouray, Central Classified Files, Record Group 75, National Archives.
3. Cooperative Fire Fighting Agreement between the Ashley National Forest, Uintah Basin Soil Conservation District, Duchesne Grazing District #6, Vernal Office--Bureau of Reclamation, Uintah Ouray Indian Agency, State of Utah, and Dinosaur National Monument--Park Service. April 27, 1945. 30131-47-339, Uintah and Ouray.
4. The Ute Indian Tribe v. State of Utah. United States Court of Appeals, Tenth Circuit, August 29, 1983. 716 Federal Reporter, 2d Series, 1298-1322.

ITEM B-1

INDIAN OFFICE.

FILES.

Re la. timber supply on Uintah & Ouray Resn.

See 137229-1915 Uintah 309.3
See 39140-1921 Uintah 339

35039-10
Uintah 339

GENERAL REPORT

CARE AND PROTECTION OF TIMBER

on the

UINTAH INDIAN RESERVATION,

Wasatch and Uintah Counties, Utah.

*Copied to Statisticians & Land Coms
Q.M.*

AREA.

The area occupied by the Indian lands is shown on the accompanying map and is as follows:

- Township 1 N.
Fractional parts of Range 1 E., 1, 2, 6, 7 and 8 W.,
and all of 3, 4 and 5 W.
- Township 2 N.
Fractional parts of Ranges 1 E., 1, 2 and 3 W.
- Township 1 S.
Fractional parts of Ranges 1 E., 1, 2, 3, 4, 5, 6, 7
and 8 W.
- Township 2 S.
Fractional parts of Ranges 1 E., 6 and 7 W.,
Uintah Base Line and Special Meridian.

The above area is separated into the following parts:

Timber Reserve No. 1 -----	9,600 acres
Timber Reserve No. 2 -----	17,280 acres
Grazing Reserve, approximately, ---	218,000 acres
Agencies, schools, etc. -----	4,800 acres
Allotted Lands -----	111,500 acres

Area under irrigation, approximately,	12,000 acres
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Area irrigable, approximately,	98,360 acres
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About 100 Indians are working their allotments. The Government cuts about 60 tons of hay from its land used for Agency purposes, but threshes no grain.

INDIAN POPULATION.

According to the Census of July 1, 1909:

		MALES	FEMALES	ALLOTMENTS
Uintah Utes	421	---	---	} 777
White River Utes	294	---	---	
Uncompahgre Utes	468	---	---	591
Total	1183	631	552	1368

This shows that the Indian population has decreased since the allotments were made.

GRAZING.

The Indian grazing reserve has an area of approximately 218,000 acres. To this may be added the timber reserves, comprising an area of 26,880 acres. These timber reserves can be used for grazing except after logging, when grazing should be prohibited on the logged area until reproduction is established.

Stock owned by Indians:

Cattle	-----	3,500
Horses	-----	2,000
Sheep	-----	2,200

Number of horses owned by the Government 28

Capacity of the Indian grazing reserve as estimated by the Superintendent of Livestock:

When used for cattle exclusively,

Summer	-----	10,000 head
Winter	-----	3,000 head

When used for sheep exclusively,

Summer	-----	12,000
Winter	-----	1,200

When used for cattle and sheep together,

Summer		
Cattle	-----	6,000
Sheep	-----	10,000
Winter		
Cattle	-----	3,000
Sheep	-----	1,200

The summer range is poor for sheep on account of its low altitude, except between Rock and Farm Creeks; and the winter range is poor for both cattle and sheep on account of the amount of snow, although the Indians can winter about 3,000 head of cattle and 1,200 sheep along the river bottoms.

The Indian sheep are owned mostly by six Indians, and only 1,150 of them graze on the grazing reserve.

The Indian cattle are owned for the most part by 100 Indians. There are probably 1,000 head or more, of wild horses on the Indian grazing land. These wild horses are worth from \$3.00 to \$10.00 on the market, according to size and condition.

Trespass.

The grazing reserve occupies a strip of land 54 miles long and from one to 18 miles wide, lying just south of the forest reserve. The south and west boundary is adjacent to homesteads and Indian allotments. Most of these homesteaders have a few cattle and horses which they pasture on the Indian grazing reserve. This is especially true on the western end as there is no Indian official located here, and the superintendent of livestock only visits this part of the reserve about once a month during the summer. This grazing does not injure the Indians much at present, but if it is allowed to continue, will become a source of serious trouble. The best way to bring it under control without hard feeling on the part of the settlers, would be to give the superintendent authority to set aside for post, a strip along the west and south boundaries, of sufficient width to afford grazing for the settlers' and Indians' milch cows and work horses, and prohibit sheep from grazing on this area; also give the superintendent authority to lease or issue permits to the homesteader to

pasture his milch cows and work horses to the number of twenty head per homestead, at \$1.00 per head per year on the posted area. If the homesteader exceeds the amount stated in the lease or permit, the superintendent should have power to cancel the same.

I talked with some of the settlers who are trespassing, and they said they would gladly pay \$1.00 per head for the privilege of running their cattle on the Indian grazing reserve. This would bring in about \$700 or \$800 per year, which would pay for a man to watch the permittees and also for fire protection.

Stock Crossing Indian Grazing Reserve.

When the grazing reserve was first established, the superintendent charged a fee for stock crossing said reserve, and the forest supervisor, in turn, charged the Indians for grazing on the forest reserve. Later it was arranged between the forest supervisor and superintendent that stock going to the forest reserve, should cross the grazing reserve free of charge, four days being allowed for crossing, and in lieu of this, the Indians should have the right to graze 1,000 head of stock on the forest reserve, formerly Indian lands, free of charge.

Grazing Leases.

The only income from grazing is from a lease issued to Murdock Brothers to graze 5,000 head of sheep at twenty cents per head, between Rock and Farm Creeks. These sheep should be counted when they enter the reserve and at any other time during the grazing season when the superintendent feels that it is necessary in order to prevent the lessees from grazing more sheep than the lease calls for.

TIMBER.

In describing the timber on the Indian lands, it will be best to separate it into units, as shown on the map, viz.:

Timber Reserve No. 1

Timber Reserve No. 2

Grazing Reserve and Allotments.

Timber Reserve No. 1.

This reserve occupies Sections 13, 14, 15, 10, 11, 12, 1, 2 and 3, Township 2 N., Range 3 W., and Sections 5, 6, 7, 8, 17 and 18, Township 2 N., Range 2 W.

The agency sawmill is located on the east boundary of Section 5, Township 2 N., Range 2 W., and has been operated here some five years. All the merchantable timber that should be cut from the reserve, has been removed. There was formerly a good stand of Yellow Pine on Sections 5, 8 and 17, Range 2 W., Township 2 N., but all has been removed except that which is absolutely necessary for the proper reproducing of the forest. The remainder of the reserve is covered by a young stand of Lodgepole (70%), poplar (20%), and fir (10%), running from two to eight inches D. B. H. At the present time this stand cannot be considered as merchantable on account of its size and inaccessibility. This type occupies a mountainous part of the reserve, while the Yellow Pine is found on the less mountainous foothills. The cut-over stand of Yellow Pine left on the reserve, is in a healthy condition, and for the most part the trees are young; very few are over 14 inches D. B. H. If they are left for seedling purposes, they will furnish a good cut in fifteen or twenty years' time, as well as seeding up the area.

Reproduction.

On the cut-over Yellow Pine area, a fair young stand of Yellow Pine is found, varying from a foot to 25 feet in height. If fire is prevented, the ground will be well stocked with Yellow Pine, so that the seed trees now standing can be removed in 15 years.

AGENCY SAWMILL.

Machinery.

1	40 H. P. Boiler
1	40 H. P. Engine
3	Saws
1	30 H. P. Engine, not in use
	Mill
1	Planing and Matcher, in use
1	Planing Mill, broken
1	Small Edger
1	Shingle Mill, 1 Lath Mill

Capacity of the Mill ----- 8,000 feet per day.

Value ----- \$3,000

The mill is too large for the requirements of the Agency. It costs so much to move it that it cannot be used to advantage in cutting the more isolated timber. A light portable mill would saw all the lumber needed by the Agency and it could pick up much timber that is worthless at present on account of long hauls to mill.

Labor Used in Mill.

Regular Employees.

1 Miller and Engineer, used as Sawyer ----- \$900.00

Irregular Employees.

1 Engineer ----- \$2.25 per day.
1 Ratchet Setter ----- 2.25
1 Slab Man ----- 2.00
1 Teamster and Rollway Man ----- 2.00
1 Offbearer ----- 2.00
1 Yardman ----- 2.00

12.50

Cost of Logging and Sawing.

Logging to Mill ----- \$8.00 per M.

Sawing and Piling ----- 4.00 per M.

Lumber cut during 1909.

Uintah and Ouray Agency ----- 139,700 feet

Uintah Irrigation Survey ----- 533,751 feet

Total ----- 673,451 feet.

Probable Amount of Lumber to be cut in 1910 ----- 200,000 feet

Estimated Cost for 1910

For Manufacture ----- \$14.00 per M.

If the mill is moved after the present contract, which probably will be the case, the cost of manufacture of the lumber should not exceed \$12.00 per M. piled in the yard. The logging conditions are good at either place on the Indian timber lands where the mill would be likely to go, and \$12.00 should give a good profit on the manufacture of the lumber.

METHODS USED IN LOGGING AT GOVERNMENT MILL.

The mill was given free of charge to Mr. Means of the Indian Reclamation Service to saw the lumber required for the Indian ditches, without any assurance that it would be returned in as good condition as when received by him. He in turn handed it over to the contractor without a bond of any kind. When the Agency mill is used by any party except the superintendent, some security should be given for the proper care and protection of the same.

CONTRACTS FOR LOGGING BY THE AGENCY.

The superintendent issued proposals for placing at the mill 100,000 feet of logs, logs to be not less than 8 inches at the top end. Mr. William Robinson was the lowest bidder at \$8.00 per M., delivered at the mill. This did not include the placing of the logs on the rollway, and it was necessary for the superintendent to keep a man and team for this purpose. The \$8.00 per M. was sufficiently large for the placing of the logs on the rollway. Mr. Robinson as the lowest bidder, was accepted by the superintendent, and he accordingly went on the Indian lands to cut his required amount of timber, without any bond, restrictions, regulations or supervision. He got the logs wherever and in whatever manner he wished, with the following results:

1. Many dead trees that were merchantable, were left standing. In this manner a considerable amount of merchantable timber was wasted.

2. Stumps were cut from 18 inches to 3 feet high.
3. The top diameter limit does not go below 9 inches and runs as high as 14 inches. This left at least one good log in nearly every top.
4. The brush was neither lopped, piled nor burned. This not only increases the fire danger, but is a bad example for the Government to set for private individuals, whom it expects to do lumbering in a proper manner.
5. The area was cut over regardless of the future stand, and many trees were left that should have been cut and vice versa.

Mr. Hardinger, who had Mr. Means' contract, cut out his required amount in the same wasteful manner. He also left some 15,000 feet of good logs on the skidways, as well as many other logs scattered over the area and not skidded. If the present contractor cannot be induced to haul these logs to the mill, the superintendent should be given authority to have them hauled and sawed before the mill is removed.

The removal of the logs left in the tops and the piling and burning of the brush would be very costly under present conditions, and the increased danger from fire is not sufficient to warrant this outlay, as the cutting has been so irregular that the tops do not overlap for any considerable area; consequently the fire danger is not so great as the method used would lead one to believe. The fire danger can be partially overcome by the proper carrying out of the fire protection plans outlined later, and if fire can be prevented for three or four years, the greater part of the danger will be past.

Although the brush has not been piled or burned on the cut-over area, no fire has occurred in the past ten years. This has given what trees were left, a good chance to seed up the area, and a fair reproduction has come up over the greater part of the cut-over land. The small trees left standing will yield a fair cut in 15 or 20 years and not much harm will be done to the future forests if fires can be prevented. The greatest harm has been done by wasteful logging, and if the tops had been cut to the proper size, the fire danger would have been materially decreased.

As soon as the present contract is completed, no contracts for logging to the mill in its present location should be let on the Indian land.

In future no logging should be permitted on Indian lands without proper regulation and supervision.

GENERAL REGULATIONS FOR CUTTING YELLOW PINE
ON UTAH RESERVATION.

1. All dead trees shall be cut and all merchantable timber taken from same.
2. All green timber to be cut shall be marked by the superintendent. No trees under 15 inches D.B.H. shall be cut unless injured or dying.
3. Stumps shall not be over 18 inches high.
4. All trees shall be cut to a top diameter limit of 6 inches.
5. All brush shall be lopped or piled and burned, as the superintendent sees fit.
6. All merchantable timber cut shall be hauled to the mill.

TIMBER RESERVE NUMBER TWO.

This reserve occupies the N $\frac{1}{2}$ of Township 7 N., Range 5 W., and the NW $\frac{1}{4}$ of Township 1 N., Range 2 W. It can be divided into three types, as follows: Yellow Pine, Lodgepole and Grass Land.

The Yellow Pine type occupies wholly or in part, as shown by the map, Sections 5, 6 and 8, Township 1 N., Range 4 W., and Sections 3, 4, 7, 8, 9 and 10, Township 1 N., Range 5 W., approximately 4800 acres, and will cut 11,000,000 feet of lumber, board measure, valued at \$2.50 per M. There is also about 700,000 feet, board measure, of insect-infested timber in this area, valued at \$1.00 per M. The main body of insect-infested timber is in the W $\frac{1}{2}$ of Section 3 and Section 4 and the W $\frac{1}{2}$ of Section 5, Township 1 N., Range 5 W. The trees infested are scattered in small groups over nearly all the Yellow Pine belt and the size of the groups is increasing year by year.

The Lodgepole type is found in Sections 5, 6 and 7, Township 1 N., Range 5 W., approximate area 1400 acres. Most of this has been burned over, and no merchantable timber is left. There are large quantities of good, dry

house logs scattered over the area, which many of the settlers are hauling away. A fair Lodgepole reproduction is coming up over a greater part of the burned area, and in isolated groups the old stand is left unharmed.

The superintendent should be given authority to issue permits to the settlers for these house logs, at a price not less than one-half cent per linear foot.

The Yellow Pine reproduction is very poor over the entire Yellow Pine belt, but there is a fair stand of pole material about 6 to 8 inches D.B.H.

The remainder of the reserve is grass land.

DISPOSAL OF INSECT-INFESTED TIMBER.

The superintendent should be given authority to sell all insect-infested timber in the open market, under the following regulations:

1. All insect-killed or infested timber should be felled regardless of size, the felling to take place between the first of October and the first of May.
2. All logs that are not peeled, shall be sawed into lumber by the first of May.
3. All trees shall be cut to a top diameter limit of 6 inches.
4. Stumps shall not be over 16 inches high.
5. All tops shall be piled by the contractor and burned by the forest ranger before May 15th. Any logs or trees left in the woods that are not merchantable, shall be barked or piled by the contractor and burned by the forest ranger before May 15th.
6. All slabs shall be peeled or burned before the 15th of May by the contractor.
7. All insect-infested timber shall be cut within two years from date of the contract.
8. No tree under 12 inches D.B.H. shall be scaled.
9. All green timber shall be marked by the superintendent.
10. The cutting area shall be selected by the superintendent.

11. No lumber shall be removed from the mill yard until paid for.

12. A bond of \$300 shall be furnished by the contractor for faithful compliance with the regulations. In case the regulations are repeatedly broken, he shall forfeit said bond.

Mr. Anderson, who has a mill in Section 33, Township 2 N., Range 5 W., says he would be willing to pay \$1.50 for the infested timber, but since the regulations require all the small trees to be cut and piled, \$1.00 per M. would be a fair price.

Isolated groups of insect-infested timber that are remote from the logging area and cannot be handled with profit, should be felled by the superintendent and peeled or burned between October 1st and May 15th.

Timber Trespass.

In the winter of 1909-10, 73,612 feet, board measure of dead timber was cut in Sections 3 and 4, Township 2 N., Range 5 W. In the fall of 1909 the Forest Service Ranger issued free-use permits to the trespassers and showed them the line between the forest reserve and the Indian Reserve. Some of the trespassers who cut only a short distance over the line, apparently thought they were on the forest reserve, for they piled the brush and cleaned up the tops. But others who cut from one-half to three-quarters of a mile south of the line, knew they were on Indian lands, for they made no attempt to pile or dispose of the brush in any way. The main reason for cutting on Indian lands was apparently the easier logging to the mill than from the forest reserve.

List of Free-use Permits Issued by the Forest Service Ranger Showing the Amount Applied For and the Quantity Scaled by the Forest Ranger.

Timber was all cut on the Indian Reserve.

Name.	Amount Applied for.	Amount scaled.
Jim Shirts	8,000	5,670
- - - Robb	5,000	4,670
Amount forwarded	13,000	10,340

	Amount forwarded	13,000	10,340
Joe Nielson	8,000	7,920	
Heber Jolly	10,000	7,800	
- - - McKonkie	1,280	2,000	
H. A. Pearson	6,000	5,010	
A. M. Marchant	5,000	2,930	
R. Wilkens	4,000	3,240	
E. Lewis	5,000	4,500	
J. Birch	5,000	4,810	
John Dapper	3,000	2,980	
Soren Hansen	<u>10,000</u>	<u>10,722</u>	
Total	70,280	62,252 ✓	

These figures were received from the Forest Ranger and showed that 70,280 feet were applied for and 62,252 feet were scaled. Mr. Hansen's scale was taken from a mill report, as the Ranger did not scale his logs, as he says that he knew they were cut on Indian land. Mr. Hansen took the logs without any Government scale.

Statement of Anderson Brothers, Millmen, Showing the Amount of Lumber Sawn and Taken from Mill, Amount of Lumber Still in Yard And the Amount of Logs in Yard, a Total of 59,612 feet.

Stevens Bros., sawn and gone	4,000 ✓
E. Lewis, " " "	2,000 ✓
A. M. Marchant, " " "	4,000 ✓
R. Wilkens, " " "	2,000 ✓
Heber Jolly, " # "	12,000 ✓
Joe Nielson, 4,000 in yard, 2,000 gone	<u>6,000</u> ✓
Amount forwarded	30,000

	Amount forwarded	30,000
H. A. Pierson, sawed and gone	3,000 ✓	
W. McConkie, logs in yard	2,890 ✓	
S. Hanson, for Town Hall at Bonita, 4,000 feet in yard, rem. gone,	10,722 ✓	
C. W. Anderson, for bridge in Lake Fork,	4,000 ✓	
Mr. Meachan, logs in yard,	9,000	
Total	59,612 ✓	

To the best of our knowledge the above timber was cut on Indian Timber Reserve, Uintah Reservation, Range 5 West, Twp. 1 North.

Witnesses:

C. W. Anderson

John Anderson.

Henry R. Karnstedt

Charles Elliott.

Logs cut and remaining in woods, 14,000 ft. ✓

12,500 feet of these logs belong to H. A. Pierson. ✓

This shows a total trespass of 73,612 feet.

Settlement.

All the men talked with in regard to the trespass, were willing to settle, as they apparently knew that the lumber had been cut on Indian lands, and I recommend that the superintendent be given authority to settle with the above trespassers, and any others that may have trespassed, for \$2.00 per M., the trespassers to pile the brush. In case they refuse to settle, criminal as well as civil action should be brought against them.

\$2.00 per M. is fifty cents greater than the Forest Service sells the dead lumber for, but some penalty should be attached to the crime. This is necessary, in order to prevent, if possible, a repetition of the offense.

GRAZING RESERVE.

Timber.

Approximately 1400 acres in Sections 22, 23, 26 and 27, Township 2 N., Range 3 W., is covered by a good stand of Yellow Pine; approximately 4,700,000 feet on this area, valued at \$2.50 per M. The remainder of the Yellow Pine belt, extending to the present millsite, has either been cut over, or has a very open stand and cannot be considered as merchantable at the present time. The bark beetle has begun work on this timber, but only on small isolated groups of trees. It is the wish of the superintendent to place the Agency mill on this tract of merchantable timber, and if this is done, all the dead timber should be removed before the green is cut, in order to check the insect injury.

There is a very narrow strip of cut-over Yellow Pine mixed with scattered groups of Lodgepole, extending from the present millsite along the Uintah River, to the Agency. The area for the most part has a fair Yellow Pine reproduction under the scattered seed trees, and in time will yield a fair cut.

Lodgepole, Fir and Other Species.

On the west end of the reserve, in Township 1 N., and Ranges 6, 7 and 8 W., is found a scattered bunch of Lodgepole (70%), fir and other species (30%), from 6 to 12 inches D.B.H. There is very little lumber, but large quantities of house logs and poles on this area. Approximately 3000 acres are covered by this type. The main groups are shown on the map, and the remainder of the type is scattered.

Juniper Type.

Approximately 60,000 acres of the grazing land is covered by a growth of juniper suitable for posts and fuel. This type is found in areas of various sizes and evenly distributed over the grazing reserve. There are approximately 3,000,000 posts and 120,000 cords of wood in this type.

The settlers secured many of their posts from this area without permits for the same, and the superintendent should be given authority to issue permits to the settlers for posts at not less than the following prices:

Fence Posts ----- 6 cents on the stump
Shed Posts ----- 12 cents on the stump.

Posts Cut in 1909 - Value.

3271 Cedar Posts	@ 3¢	\$98.13
910 Cedar Posts	@ 5¢	45.50
2554 Posts free permit for fencing allotments		No charge.

ESTIMATED AMOUNT AND VALUE OF TIMBER ON INDIAN LANDS.

Yellow Pine 16,700,000 feet. Value \$2.50 per M. on stump.

There is approximately 2,000,000 feet of Yellow Pine scattered over the reserve and cut-over areas, which cannot be considered as merchantable and has no value at present except for seeding purposes. However, at the end of 15 or 20 years, it will have increased in size sufficiently to be considered merchantable.

There is also about 2,000,000 feet of Lodgepole and other species on the west end of the reservation, which there is no market for at present and cannot be considered as merchantable.

Cedar posts on stump, 3,000,000 @ 5¢ apiece

Cedar cord wood on stump, 120,000 cords, 50¢ a cord.

FIRE PROTECTION.

Outside Employees Available for the Care and Protection of Indian Timber Lands.

<u>Name</u>	<u>Title</u>	<u>Location</u>	<u>Salary</u>
F. E. Frick	Miller & Engineer	Whiterocks, Utah	\$900
	Used as Sawyer.		
Henry R. Karnstedt	Stockman	" "	900 #
L. H. Mitchell	Farmer	" "	900
Hugh Owens	Farmer	Randlett,	900
George Elliott	Add. Farmer	Myton,	720
Charles Elliott	Add. Farmer	Lake Fork,	720

\$1.00 per diem in addition to salary.

<u>Name</u>	<u>Title</u>	<u>Location</u>	<u>Salary</u>
A. D. Anderson	Add. Farmer	Whiterocks, Utah	\$780
Henry Reaves	Add. Farmer	Randlett, Utah	720
Claud Chandler	Constable	Whiterocks, "	780
Bob Ridley	Pol. Officer	" "	25 M.
Penning Jack	Pol. Private	" "	20 M.
Chegup	" "	" "	20 M.
John Yesto	" "	Lake Fork "	20 M.
## Gilbert	" "	Whiterocks, "	20 M.
Tim Sireech	" "	" "	20 M.
## Andrew Frank	" "	" "	20 M.
Monk Shavansaux	" "	Ouray, Utah	20 M.
Wissiu	" "	" "	20 M.
John Victor	" "	Randlett, Utah	20 M.
Corass	" "	" "	20 M.

Note: Distance from Agency Office to Randlett - 19 m. S. E.

" " " " " Ouray - 34 m. S. E.

" " " " " Myton - 26 m. S. W.

" " " " " Lake Fork - 31 m. West

Janitors for agency and physician's office.

These outside employees, if properly distributed over the reservation, should be able to give proper protection to the Indian timber and grazing interests.

Plan for Fire Protection.

In order to give the Indian lands the best protection against fires and trespass, the area should be divided into three districts, as follows:

District No. 1.

This district includes the area from Dry Gulch eastward; headquarters at Whiterocks.

District No. 2.

This district includes the area between Dry Gulch and Rock Creek; headquarters at Mr. Elliott's, in Section 32, Range 1 N., Township 4 W.

District No. 3.

This district includes the area from Rock Creek westward; headquarters either at Farm Creek, Section 7, Range 1 S., Township 7 W., or at Blind Canyon, Section 27, Township 1 N., Range 8 W.

Employees to be stationed at the respective headquarters.

District No. 1.

Claud Chandler, Constable, headquarters at Whiterocks; and an Indian policeman as an assistant, to be stationed at the present millsite in Section 5, Township 2 N., Range 2 W.

If this assistant properly patrols the cut-over area, there will be very little danger from fire on account of the improper cutting of timber in this vicinity.

There is a cabin at the mill which the policeman could use, and he should be stationed here during the fire season, (April 1 to October 1).

Mr. Chandler should be held responsible for the care and protection of timber and the prevention of trespass in this area, and also see that the Indian assistant does his work in a proper manner.

District No. 2.

Mr. Charles Elliott, Farmer, should have charge of this district, with an Indian policeman as an assistant.

The superintendent intended to station John Yesto at Lake Forks, where he has an allotment, to assist Mr. Elliott in this work.

Mr. Elliott should be held responsible for his district in the same way as Mr. Chandler.

District No. 3.

Henry R. Karnstedt, Superintendent of Livestock, should be placed in charge of this district, with head-

quarters either at Farm Creek or Blind Canyon, as the Superintendent shall decide. He should have an Indian policeman as an assistant. If the Superintendent cannot spare a policeman for this position, Mr. Winchester, an Indian living at Farm Creek, should be appointed as assistant to Mr. Karnstedt, at \$20 per month. It will be necessary for the Superintendent to build a cabin for Mr. Karnstedt, at an approximate cost of \$700; as this would be the best location for Mr. Karnstedt in his present capacity of Stockman, I feel that the cabin should be built from funds other than Care and Protection of Indian Timber.

Mr. Karnstedt should be held responsible for the proper care and protection of the Indian timber, as well as the prevention of trespass on the entire Indian land, and should be called Chief Fire Ranger. He is thoroughly competent to mark all timber that should be cut on the reservation, and also to supervise the disposal of the brush.

All fires should be reported to the Superintendent on blank forms furnished by the Office; and the Superintendent in turn, should make monthly reports, a copy of which is to be sent to the Commissioner of Indian Affairs, and also to the District Forester at Albuquerque, New Mexico.

The amount of timber on the Indian lands will not permit the establishing of new offices on the reservation, for the salaries would soon exceed the value of the timber, and the above plan is the cheapest and best under present conditions. However, the men in charge of the different districts have extra work to do, and their salaries should be raised and this raise paid from the fund Care and Protection of Indian Timber.

Estimate of Cost for Proper Care and Protection of Indian Timber and Prevention of Trespass on Indian lands, to be paid from Fund

Care and Protection of Indian Timber.

Mr. Henry R. Karnstedt	\$150	per year
Charles Elliott	100	" "
Claud Chandler	100	" "
Mr. Winchester (Indian)	240	" "

Note: If the Superintendent could possibly spare a policeman to assist Mr. Karnstedt, it would be unnecessary to employ Mr. Winchester.

In case Mr. Winchester is employed, the extra cost for proper care and protection of Indian lands would be \$590; otherwise, \$350 per year.

Miscellaneous.

The Superintendent should be furnished with fire and boundary notices, and also blank forms for reporting fires and the amount of timber cut on the reservation.

Alternative Method of Disposal of Insect-infested Timber.

If the Superintendent cannot make a contract for the disposal of insect-infested timber on Indian Reserve No. 2, before the first of September, the Agency mill should be removed to this reserve for the purpose of cutting same.

The sale of the timber would be the best method, as then the Superintendent could place the mill in Section 27, Township 2 N., Range 3 W., and begin cutting the dead and insect-infested timber in this block. However, if the sale cannot be made, the mill should be taken to Reserve No. 2, and when the insect-infested timber is sawed, the mill should be removed to the timber in Township 2 N., Range 3 W., for the purpose of cutting the dead timber in this section.

TELEPHONE. A line should be constructed from Mr. Elliott's to Mr. Karnstedt's headquarters.

Respectfully submitted,

J. A. Butcher

District Forester and S. D. A

ITEM B-2

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS

FILES

CAUTION!

Positively no papers to be added to or taken from this file, except by an employee of the Mails and Files Division.

FILE NO. 15763

1942

UINTAH & OURAY

339

ITEM B-2

UNITED STATES
DEPARTMENT OF THE INTERIOR

Forestry and Grazing

OFFICE OF INDIAN AFFAIRS

FIELD SERVICE

319 Boston Bldg.
Salt Lake City, Utah
April 6, 1942

Commissioner of Indian Affairs
Washington, D. C.

Dear Sir:

Enclosed herewith please find a copy of the fire control plans for the Uintah and Ouray Reservation.

These plans have been in effect for several years but this is the first time they have been recorded on paper. It is felt that they are very satisfactory and effective.

Yours truly,

Richard B. Millin
RICHARD B. MILLIN
Regional Forester

RBM:ft
encl.
cc: Supt. C. C. Wright



FORWARD:

Uintah & Ouray Jurisdiction

The fire control plan submitted for this jurisdiction concerns only the diminished and ceded portions of the Uintah & Ouray Reservation. When the necessity arises a fire control plan will be prepared for the Ute Extension Area (Uacompaghe Reservation); Navajo, Hosharem, Paiute, Shivwits and Kaibab reservations all in the State of Utah except Kaibab which is in Arizona.

Fire Control plan prepared by:

Approved:

C. C. Wright,
Superintendent.

Approved:

R. B. Millin,
Regional Forester.



Uintah and Ouray Reservation Fire Control Plan

Fort Duchesne, Utah

FORWARD:

Contents:

Diminished Section of Uintah & Ouray Reservation

I Destructible Resources:

- 1-Area & location
- 2-Climatic conditions
- 3-Topographic features
- 4-Forest resources
- 5-Range resources
- 6-Value of destructible resources

Diminished Page	1
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" " "	2
" " "	2
" " "	2
" " "	3

II Detection:

- 1-Number and type of lookout stations
- 2-Degree of coverage

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III Transportation Systems:

- 1-Analysis of transportation system
- 2-Guard and smoke chaser locations
- 3-Record of travel time
- 4-Small scale map showing roads etc.

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" " "	10

IV Communication:

- 1-Discussion of telephone and radio system- Diminished page 6
- 2-Map of communication system " " " 11

II Hazard Areas:

1-Discussion of hazard areas

Diminished Page 6

VI The Fire Record:

1-Analysis of fire record
2-Map showing location of fires

Diminished Page 7
" " " 12

XII Inventory of Available Fire Equipment:

Inventory

Diminished Page 7

XXII The Protective Organization:

Diminished Page 8

III Plan of Action

Diminished Page 9

Ceded Portion of Uintah & Ouray Reservation

I Destruction Resources:

1-Area & location
2-Climatic conditions
3-Topographic Features
4-Forest Resources
5-Range Resources
6-Value of Destructible Resources

Ceded Page 1
" " 1
" " 1
" " 1
" " 1
" " 2

VI Detection:

XIII Transportation:

1-Analysis of transportation System
2-Guard & smoke chaser locations
3-Record of travel time
4-Small scale map showing roads etc.

Ceded Page 2
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" " 2
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IV Communications:

1-Discussion
2-Small Map

Ceded Page 3
Diminished Page 11

V Hazard Areas:

Ceded Page 3

VI The Fire Record:

Ceded Page 3

XII Inventory of Fire Equipment:

Ceded Page 3

XXII Protective Organization:

Ceded Page 4

III Plan of Action:

Ceded Page 4

Uintah and Ouray Reservation
Diminished Portion

UINTAH AND OURAY RESERVATION FIRE PLAN (DIMINISHED PORTION)

1. DESTRUCTIBLE RESOURCES:

1- Area and Location.

The Uintah and Ouray Reservation has approximately 275,000 acres of land within its exterior boundaries (Diminished portion). It is located in the foothills of the south slopes of the Wasatch Range the only major mountain range on this continent running east and west. It is north of Highway U.S. 40 between Denver, Colorado and Salt Lake City, Utah. The reservation is approximately 60 miles long (airline) east and west and varies from one to eighteen miles wide north and south.

2- Climatic Conditions.

The average precipitation at Fort Duchesne (Uintah and Ouray Agency) is 6.77 inches, while Park Canyon approximately thirty miles north west averages 20 inches ("Precipitation Map by Richard B. Millin, December 1938). As a whole the reservation can be classified as semi-arid by Thornthwaite's classification. Six inches to two feet of snow occurs on the lower elevations and from two to four feet of snow at the higher elevations is not uncommon. The spring precipitation is varied, some years there is rain and snow, others none. Summer rains usually begin about July 15th, varying little from that date. On the Uintah and Ouray Reservation it has been shown that an average of 18% of the winters, 30% of the springs and 14% of the summers have been droughts (Seasonal Drought Frequency on the Indian Reservations of the Intermountain Region by Richard B. Millin). During the months of March and April strong, dry

winds prevail from the southwest. These winds with their high evaporation rate, plus an undependable spring precipitation causes a very high fire hazard. The winds often continue during the months of May and June, when this happens plus drought and high temperatures a disastrous fire season results (as in 1940). The temperatures vary from 40°F in the winter to 110°F in the summer.

3- Topographic Features.

The reservation is a series (from east to west) of canyons(rivers) with flat to rolling terrain between. The elevation vary from 4991 feet at Fort Duchesne to approximately 9500 feet on the higher mountains. The soil varies from heavy clay to sandy clay. The depth of soil varies from several feet to no soil covering the rock deposits of the glaciers. Parts of the reservation contain natural asphalt outcrops, parts natural gravel beds and other parts are glacier and river smoothed boulders.

4- Forest Resources.

The reservation contains:

Class of timber land	Area Acres	Vol. Bd. Ft.	Value
Commercial	18,100	13,000,000	32,500
Commercial timber cut over	8,800	1,000,000	2,500
Non-commercial	104,731	52,000,000	78,000
Total timber resources	131,711	66,000,000	113,000

The Ute Indian Tribe receives from \$100.00 to \$300.00 annually from the sale of dead timber to the local people. The Indians use the logs for building houses, barns, corrals, irrigation structures, etc. The pinon and juniper is the chief source of fuel and fence posts.

5- Range Resources.

The reservation has a carrying capacity of approximately 21,000

cattle months. The carrying capacity has increased approximately 4,000 cattle months above the figure given by T.C.R.I.A. in 1936. This increase is due principally to conservative stocking, range improvements (reservoirs and springs developed) and judicious range management. The Ute Indian Tribe received approximately \$2,500.00 during the fiscal year of 1940 from grazing permits. At present there is a growing tendency for the Indians to stock their reservation with their own stock. The tendency of the Indians is using their grazing resources with their own stock will decrease the Tribal income but will greatly increase the per capita wealth if the Tribe.

6- Value of Destructible Resources.

The timber on this reservation although limited in amount is of great importance to the Indians. The Indians are dependent on the timber for their source of materials for their houses, barns, corrals, irrigation structures, etc. The pinon and juniper stands are the source of their fuel. If the Indians lost their timber the cost of materials for the above uses would be prohibitive to their present standard of living.

The grazing resource is one of the chief sources of income to the Indians since their stock raising industry is closely tied in with their agricultural pursuit. Without their stock industry the Indians would be practically destitute.

The recreational value of the reservation is gradually increasing. The main reason for this increase in recreational value is due to the improved roads constructed in the past few years, which has made the reservation accessible to large population centers to the west (Salt Lake City).

The game on the reservation is scarce in the summer and numerous in the winter. The reason for this that the game is on the high range of the National Forest to the north of the reservation in the summer and in the winter the game migrates to the lower foothills of the reservation. The State Game and Fish Department maintains a fish hatchery on the reservation at Whitetocks which keep to stock the rivers and streams each year on the reservation.

The watershed values of the reservation are of great importance although the head waters of most of the rivers and streams are on the National Forest. By maintenance of the vegetative cover on the reservation the areas below the boundary line are protected from the run-off of torrential rains in the summer which otherwise would carry large deposits of silt to the agricultural lands.

II DETECTION:

1- There is one thirty foot wooden lookout tower on the reservation. Available records do not indicate that the tower was ever used as a full time lookout during any fire season. The tower is a short distance from the Dry Gulch Ranger Station. The range guard that occupies the Dry Gulch Ranger Station usually climbs the tower in the mornings and evenings during the fire season and watches for fires.

2- Degree of coverage:

From the lookout tower, a large part of the higher portions of the reservation can be seen. There are no other lookouts on the reservation or the adjoining National Forest, which would give a cross shot on fires. Due to the type of terrain the lookout is of little value in the present location.

III TRANSPORTATION SYSTEM:

See map No.1 attached to this plan which gives a clear picture of the reservation transportation system. The reservation is criss crossed with all season roads. In this case all season roads mean roads that can usually be traveled from April 15, to October 30. The timber reserves of the reservation, where not accessible by roads, are accessible by horse and foot trails. Villages: a- Paved roads: none on the reservation proper. b- Gravelled roads: approximately twenty-five miles on reservation proper. c- All season dirt road: approximately one hundred and fifty miles within reservation boundary. d- Dry weather roads: approximately thirty miles within the reservation boundary. e- Horse and foot trails: approximately thirty-five miles within reservation boundary.

2- Guard and smoke chaser locations.

No temporary help in the past has been employed in the position of guard or smoke chaser. It is not contemplated in the future to have either guard or smoke chasers. At present there are three regular range guards who act as fire guards on the reservation during the fire season. The range guards are familiar with their districts and thru a system of patrols.

3- A record of travel time between centers of man power and different locations on the reservation is difficult to show. The reason is obvious by looking at map number one. Under the fire protection system used on this reservation whenever smoke is discovered cooperative observers both Indian and non-Indian immediately phone the dispatching office and report the fire. The cooperative observers after reporting the fire then take a few of the nearest neighbors and proceeded to the fire. Most of the

reservation is within one hour travel time of the cooperative observers.

Map one indicates location of cooperative observers and centers of man power.

IV COMMUNICATION:

The CCC-ID Division has built approximately sixty-eight miles of telephone line on the reservation (Diminished Portion). This line connects the Hidden CCC camp with four of the five ranger stations. This line is also connected during fire season with the National Forest line by a two way switch at the Elk Horn Ranger Station. In addition to the above line the Indian Irrigation Service has a telephone line which connects most of the more important towns (man power centers) with the dispatching office. A Commercial telephone line connects the Rock Creek Ranger Station with the National Forest Service Ranger Station above Hanna. The telephone connections are adequate under present conditions.

2- At the present time there is a 50 watt sending and receiving radio station at the dispatching office. There are no portable or non-portable sending and receiving sets available for the reservation. Several portable sending and receiving sets will be obtained for fire suppression as soon as funds are made available.

V HAZARD AREAS:

1- The greatest hazard area on the reservation from the view point of number of fires by area is the Uintah-Whiterocks river bottoms.

Lightning starts a small fraction of the number of fires each year.

Camper and picnic zones are well defined and number of fires started on these areas are small.

The greatest number of fires are started by fishermen and local

residents.

VI THE FIRE RECORD:

The analysis of the fire records for this reservation show that up to the year 1930, burning off the range was considered good range management. In 1930 a junior forester was stationed at this reservation. At the present time the attitude towards range burning is losing many of its adherents. This practice will be eliminated in the near future, thru education. The fire records that have been kept at this Agency are incorporated on the attached small scale map.

VII INVENTORY OF AVAILABLE FIRE EQUIPMENT INCLUDING CIVILIAN CONSERVATION CORP EQUIPMENT:

Article	Purchased by the		
	CCC-ID	Ute Indian Tribe	Forestry & Grazing
Meas Kits	*		
Pack Saddles			1
Riding saddles			1
Shovels	43		5
Axes D.B.	12		
Axes S.B.			7
Pulashies	23	24	
Saws-two-man		8	5
Fire Swatters		24	5
Canteens 1 qt		72	5
Five gal back pack water bags.	3	6	
Headlamps		24	
First Aid Kits		12	
Pump, 5 gal, Metal, back pack	16	10	2

Uintah and Ouray Reservation
Ceded Portion

UINTAH AND OURAY RESERVATION--CEDED PORTION

1. DESTRUCTIBLE RESOURCES:

1. Area and Location.

The Ceded Lands of the Uintah and Ouray Reservation are scattered thruout the Uinta Basin. There are approximately 230,000 acres of Ceded lands. Interspersed with the Ceded lands there are an additional 77,000 acres of allotted land. The total area is over 300,000 acres which needs protection.

2- Climatic Conditions.

The climatic conditions are similar to that of the Diminished Portion of the Reservation. See Climatic conditions of Diminished Portion.

3- Topographic Features.

In the Ceded lands are found several types of topography. Some of which are: gullied, barren eroded land; flat top mesa land; river bottom land and high mountain range land covered with dense stands of timber. The soil varies from wind blown sand dunes to clay loam soil.

4- Forest Resources.

It is estimated that approximately 130,000 acres of the Ceded lands are covered with forest type. Most of the forest type consists of pinion-juniper. It is estimated that there are approximately 1,000 M board feet of merchantable timber on the Ceded lands. The merchantable timber consists of Ponderosa pine and Douglas fir.

5- Range Resources.

The estimated carrying capacity of the Ceded lands is 10,000 cow

months. For this the Ute Indian Tribe receives approximately \$1500 yearly in grazing fees. Actual control of the Ceded lands for grazing was started in 1938. Slowly progress is being made to where the range resources are being protected from overstocking and trespass.

6- Value of Destructible Resources.

It is hard to place a value of the destructible resources on the Ceded lands because of their being scattered thruout the entire Uinta Basin. As time passes a more clear picture will be obtained of the Ceded land resources and a suitable value may be established.

II. DETECTION:

There are no lookout stations located on the Ceded lands or adjacent National Forest or Grazing Service lands.

III. TRANSPORTATION:

1- Due to the scattered conditions of the Ceded lands no sensible analysis at this time can be given of the Ceded land transportation facilities. The attached map will give the best indication as to roads available for fire suppression on the Ceded lands.

2- The Ceded lands are protected for the most part by per diem guards. The location of which are shown on the attached map. This system seems to be the best method under present conditions for protection of the Ceded lands.

3- Record of Travel time.

Ranchers live on lands interspersed with the Ceded lands. In case of fire on the Ceded lands in the past the ranchers have taken immediate action on the fire. Due to the scattering of the Ceded lands it is next

to impossible to show travel time. It may be stated that most of the Ceded lands are within two hours travel time per diem or adjoining ranchers.

IV. COMMUNICATION:

At present the Ceded lands are without adequate communication system. There are few telephones and no short wave radio sets available.

V. HAZARD AREAS:

A fire record has been kept for the past two years on the Ceded lands. With this short record no attempt will be made to indicate the fire hazard areas.

VI. TWO YEAR FIRE RECORD:

With a two year record no analysis of fires by years will be attempted.

VII. INVENTORY OF FIRE EQUIPMENT:

No fire equipment is available for the per diem guards on the Ceded lands. The National Forest Service has some fire tools caches on the area that are available in case of fire. Due to the fact that the Ceded lands have been in an unsettled status for the past five years no serious attempt has been made for obtaining fire suppression equipment. If the Ceded lands should be returned to Tribal ownership funds would be requested for fire fighting equipment.

[illegible]

Assistant Range Examiner

Second line of defense

Senior Project Manager

Fire Fighters

[illegible][illegible]

ITEM B-3

8-3490

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS

FILES

CAUTION!

Positively no papers to be added to or taken from this file, except by an employee of the Mails and Files Division.

FILE NO.

66151 1947

UINTAH & OURAY

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ITEM B-3

Vernal, Utah
April 27, 1945

COOPERATIVE Fire Fighting Agreement between the:

Ashley National Forest	Vernal Office, Bureau of Reclamation
Uintah Basin Soil Conservation District	Uintah Ouray Indian Agency
Duchesne Grazing District #6	State of Utah
Dinosaur National Monument	- Park Service

The agreement of May 6, 1943 between the United States Department of Agriculture, United States Department of the Interior, State of Idaho, State of Utah is recognized as binding to the Agencies mentioned and the following provisions are supplemental to that agreement.

A. It shall be the purpose of this agreement to coordinate the fire protection activities of all personnel and facilities of the above agencies in a united effort to protect public property from destruction by fire insofar as practicable. This agreement is designed to establish a local policy for coordinating public relations, fire prevention and suppression activities and to establish clearly outlined responsibilities of the above services in the suppression of fires within or threatening the areas administered by the above agencies or adjoining lands.

(1) The following organizations and agencies will be contacted to secure their cooperation in prevention, detection, and suppression of fires:

State Highway, County Commissioner, Civic Organizations, C.A.P. Law Enforcement, Mail Carriers, Wild Life Organizations, Religious and Educational Institutions, and Youth Organizations.

B. A map and chart will be prepared showing zone of responsibility, fire control organization, location and list of equipment and tools for each agency. Necessary annual revisions will be made by each agency.

C. This agreement shall be in force until cancelled by written notice given 30 days in advance by one of the parties thereto.

D. Employees of either service discovering or receiving reports of fires which are on or threatening areas protected by the other service, shall report them promptly to the proper employees of the other service.

E. (1) Where one service takes initial action in the suppression of a fire in the protection unit of the other, that service will continue to fight the fire until relieved in writing by an officer of the other service.

(2) For fires which burn or threaten to burn on both sides of the boundary between two services, it is expected that the local officers of the two services will agree as to the management of fire suppression. Should there be a case of disagreement they will immediately report the circumstances to their superior officers, who will decide upon the action to be taken.

(3) The initial attack on the fire will be made by the crew that arrives on the scene first. The first protection officer to arrive at the fire will act as the fire boss until the arrival of a protection officer of the service on whose territory the fire is burning.

(4) In relieving men and equipment from a controlled fire, the personnel and equipment of the cooperating agency shall be relieved first.

(5) When a fire burns entirely on the lands in the protection unit of one service, that service will reimburse the cooperating agency for any expenditures incurred by it; whether such work is done on request or otherwise. When a fire burns on a protection unit of both services, the expenditures for suppression will be adjusted between the two services on the basis of the proportional acreage burned by the fire.

(6) Fire suppression personnel of each agency shall be available upon request for fire suppression activities in other areas except, that no agency shall endanger its own area by dispatching more of its protection personnel to the other area than good judgement would warrant.

(7) Each agency will ordinarily provide its own transportation. The agency on whose land the fire is burning will furnish equipment and tools to the fullest extent of its ability, on the cooperating agency will be expected to furnish equipment and tools only when the agency which it is helping has exhausted its resources.

(8) The equipment and tools loaned from another agency will be promptly returned in servicable condition to the lending agency at the end of the fire. Prompt action will be taken by the borrowing agency to pay for any items missing in the equipment and tools when returned. When Government equipment or supplies are expended or lost by a state, the Government agency may either accept an appropriation or replacement in kind.

(9) The cooperating loaning agency shall receive reimbursement from the agency benefited for materials and supplies such as gasoline, oil radio batteries, rations and other expendable and perishable items which are supplied.

(10) It is agreed between the agencies that each agency will do its utmost to enforce the state and Federal fire laws.

(11) Upon request, each agency agrees to assist the others in conducting a training program.

(12) The employees of each agency will cooperate to the fullest extent in organizing and training rural fire fighter, State forest and Range fire fighters service groups, per diem guards, etc., as effective fire fighting crews for the suppression of fires.

(13) Copies of this agreement will be furnished to each cooperating agency.

(14) A cooperative review shall be made of large fires on which two or more agencies participate with the intent of improving fire fighting methods.

Ashley National Forest

Uintah Basin Soil Conservation District

Duchesne Grazing District #8

Dinosaur National Monument-Park Service

Uintah Ouray Indian Agency

Vernal Office, Bureau of Reclamation

State of Utah

permit recovery of restitution of price paid for unused trading stamps plus consequential damages incurred in redeeming already distributed stamps). Neither case is binding on this court, and both predate *Richard v. Credit Suisse*, *supra*, the opinion that gives them their analytical underpinning. Still, the conclusion of each case, although not black letter law in New York, accords with a report by New York's Law Revision Commission³ and with the position of most commentators.⁴

I therefore concur with the majority's conclusion that a New York court would permit recovery of restitution plus additional measures of contract damages in this case. I also concur with the necessity of a remand. In rejecting CBS's claim for full contract damages and relying instead on a purely restitutionary measure, the district court failed to pass on several issues necessary to measure breach of contract damages. Both parties address these issues in their briefs on appeal, but these are topics best left to the trier of fact.

3. One party to a bilateral contract is entitled, upon the ground of repudiation or material breach by the other, to treat the contract as terminated and to maintain an action against the other for 'restitution', for the reasonable value of the injured party's part performance of the contract. Certainly the measure of recovery is not limited to the benefits conferred on the defendant; the purpose of the action is to restore the plaintiff to the situation existing before the contract was made.

Leg Doc No 65(b), Report of Law Commission at 46-47 (1946) (footnotes omitted, emphasis in original)

**The UTE INDIAN TRIBE,
Plaintiff/Appellant/Cross-Appellee,**

v.

STATE OF UTAH, Defendant-Appellee,

Duchesne County, a political subdivision of the State of Utah, Uintah County, a political subdivision of the State of Utah, Roosevelt City, a municipal corporation, and Duchesne City, a municipal corporation, Defendants/Appellees/Cross-Appellants,

United States of America, Amicus Curiae,

Paradox Production Corporation, a Utah corporation, Amicus Curiae.

Nos. 81-1827, 81-1901.

**United States Court of Appeals,
Tenth Circuit.**

Aug. 29, 1983.

Ute Tribe brought suit seeking declaratory and injunctive relief establishing the exterior boundaries of reservation. The United States District Court for the District of Utah, Central Division, 521 F.Supp. 1072, Bruce S. Jenkins, J., decided that the original reservation had been changed by several acts of Congress directed to particular tribes and held that, except for the specific acts, that all lands within original boundaries of reservation remained "Indian Country," and concluded that Uncompahgre Reservation had been disestablished, and appeals were taken. The Court of Appeals,

4. See e.g., Restatement (Second) of Contracts § 270, Comment a (1981); Restatement (Second) of Restitution § 15 (Tent.Draft No. 1, 1983); D. Dobbs, *Handbook on the Law of Remedies* §§ 12.1, 12.17, at 793, 880, 910-12 (1973); E.A. Farnsworth, *Legal Remedies for Breach of Contract*, 70 Colum.L.Rev. 1145, 1180-83 (1970); cf. Fuller & Perdue, *The Reliance Interest in Contract Damages: I*, 46 Yale L.J. 52, 55 (1936) (recognizing that what is traditionally called the restitution interest in contract damage measures is, in fact, a subset of the reliance interest).

Cite as 716 F.2d 1298 (1983)

Seth, Chief Judge, held that: (1) original Uncompahgre Reservation was disestablished; (2) prior to August 28, 1905, original boundaries of Uintah Valley Indian Reservation were diminished by Congress through various withdrawals; (3) trial court erred in holding that unallotted lands were not returned to public domain pursuant to 1902 Act; and (4) extension of 510,000 acres of former Uncompahgre Reservation to Uintah and Ouray Reservation incorporated such lands into the latter two reservations.

Order accordingly.

William E. Doyle, Circuit Judge, filed separate dissenting opinion.

1. Indians ⇐12

Resolution of dispute involving Indian reservations turns on what Congress intended to accomplish at time as a legal matter.

2. Federal Courts ⇐755

Conclusions of trial court in dispute involving Indian reservations are persuasive, but are not considered to be findings of fact.

3. Statutes ⇐217.2

If language of earlier bill is sufficiently unequivocal, and later act can be shown to have accomplished intended purpose of the first, then first gains validity as indicator of congressional intent even though it did not pass both houses.

4. Statutes ⇐217

In determining legislative intent it is necessary to consider legislation in its historical context and not as if it was passed today.

5. Public Lands ⇐47

When public land is designated to be used for particular purpose land no longer remains in public domain.

6. Indians ⇐12

Woods and Forests ⇐8

Creation of Indian reservation or forest or other particular use from public land removes it from public domain.

7. Public Lands ⇐47

Once land has been again placed in public domain it is open and free to application of public land law; Congress may then make limitations on entry and location, but these do not change status of the land.

8. Indians ⇐12

Original Uncompahgre Reservation was disestablished by congress pursuant to Act of June 7, 1897. 18 U.S.C.A. § 1151; Indian General Allotment Act, 25 U.S.C.A. § 331 et seq.; Act July 1, 1892, § 1 et seq., 27 Stat. 62; Act Aug. 15, 1894, § 1 et seq., 28 Stat. 286

9. Indians ⇐12

Prior to August 28, 1905, original boundaries of Uintah Valley Indian Reservation were diminished by Congress through withdrawal of Gilsonite strip in 1888, by withdrawal of 1,010,000 acres subsequently made part of Uintah National Forest, and by withdrawal of approximately 56,000 acres for Strawberry River Irrigation project. Act May 24, 1888, § 1 et seq., 25 Stat. 157; Act May 27, 1902, 32 Stat. 245; Act March 3, 1903, 32 Stat. 982; Act April 21, 1904, 33 Stat. 189; Act March 3, 1905, 33 Stat. 1048; Act April 4, 1910, 36 Stat. 269.

10. Indians ⇐12

Language of 1902 Act providing that all unallotted lands "shall be restored to the public domain" would have disestablished Indian reservation had unallotted lands then been opened for settlement. Act May 27, 1902, 32 Stat. 245.

11. Indians ⇐12

A 1903 act extending time for opening unallotted lands for entry as provided in 1902 Act and eliminating any reference to consent of Indians and 1904 Act again extending time for opening to March 10, 1905 so that surveying could be completed and allotments made did not affect operative terms of 1902 Act restoring any unallotted lands of 1864 Uintah Reservation to the "public domain." Act May 27, 1902, 32 Stat. 245; Act March 3, 1903, 32 Stat. 982; Act April 21, 1904, 33 Stat. 189.

12. Indians — 12

Unallotted lands at opening did not remain part of Uintah Valley Reservation; rather, such lands lost all reservation status, became part of public domain, and not within reservation for any purpose when reservation was open, subject only to special tracts set apart for specific uses before land was open, and subject to valid mineral claims specifically provided for, and valid claims made under general mining laws. Act May 27, 1902, 32 Stat. 245; Act March 3, 1903, 32 Stat. 982; Act April 21, 1904, 33 Stat. 189; Act March 3, 1905, 33 Stat. 1048.

13. Statutes — 219(1)

Of great significance in any determination of intent of Congress is executive implementation of legislation.

14. Indians — 12

Restoration of unallotted lands on original Uintah Reservation which had not been disposed of under public land laws made such lands part of reservation. Indian General Allotment Act, 25 U.S.C.A. § 463.

15. Indians — 12

Extension of 510,000 acres of former Uncompahgre Reservation to Uintah and Ouray Reservation incorporated such lands into the latter two reservations. Act March 11, 1948, 62 Stat. 72.

Daniel H. Israel of Dechert, Price & Rhoads, Denver, Colo. (Martin Seneca, Washington, D.C., with him on the brief), for plaintiff/appellant/cross-appellee The Ute Indian Tribe.

Richard L. Dewsnup, Asst. Atty. Gen., State of Utah, Salt Lake City, Utah (David L. Wilkinson, Utah Atty. Gen., Dallin W. Jensen and Michael M. Quealy, Asst. Attys. Gen., with him on the brief), Salt Lake City, Utah, for defendant-appellee State of Utah.

Tom D. Tobin of Tobin Law Offices, P.C., Winner, S.D. (David Albert Mustone of Tobin Law Offices, P.C., Washington, D.C., Dennis L. Draney, Roosevelt City Atty.,

* Honorable George Templar, United States District Judge for the District of Kansas, sitting by

Roosevelt, Utah, Roland Uresk, Duchesne City Atty., Roosevelt, Utah, with him on the brief), for defendants/appellees/cross-appellants Counties and Cities.

Carol E. Dinkins, Asst. Atty. Gen., Robert L. Klarquist and Martin Green, Attys., Dept. of Justice, Washington, D.C., on the brief for amicus curiae United States of America.

Stewart M. Hanson, Jr. and Lucy J. Skiffington of Suitter, Axland & Armstrong, Salt Lake City, Utah, on the brief for amicus curiae Paradox Production Corp.

Before SETH, Chief Judge, DOYLE, Circuit Judge, and TEMPLAR, District Judge*.

SETH, Chief Judge.

These appeals concern the continued existence of the Uncompahgre and Uintah Indian reservations. The Ute Tribe in Utah fashioned a Law and Order Code which purported to exercise jurisdiction over all the lands within the original Uintah reservation created by executive order in 1861 as well as the Uncompahgre Indian reservation created in 1882, both in Utah. The State of Utah and several Utah counties and cities questioned tribal jurisdiction over much of this land arguing that a great deal of the Uintah reservation and the whole of the Uncompahgre reservation had been disestablished and was no longer "Indian Country." (18 U.S.C. § 1151.)

This Ute Tribe (the Uintah, White River and Uncompahgre bands) brought suit for declaratory judgment and injunctive relief, requesting that the present extent of the reservations and of tribal jurisdiction be determined. The trial court heard extensive testimony and performed an exhaustive study of legislative and administrative materials relating to the history of both the Uintah and Uncompahgre reservations. The transcript and the record comprise several thousand pages.

designation.

Cite as 716 F.2d 1298 (1983)

As to the Uintah reservation the trial court decided that the original reservation had been changed by several Acts of Congress directed to particular tracts. Thus Congress had removed a 7,040-acre tract known as the Gilsonite Strip in 1888, had removed 1,010,000 acres of land for National Forest purposes in 1905, and had also withdrawn 56,000 acres of land for a reclamation project in 1910. In 1948 the Uintah reservation was increased by 510,000 acres by the addition of the Hill Creek Extension. Except for these specific Acts of Congress, the trial court held that all lands within the original boundaries of the Uintah reservation remained "Indian Country." The individual allotments to Indians, the public law entries by others and some mineral locations were recognized. These were, however, within the exterior boundaries of the reservation.

The trial court concluded that the Uncompahgre reservation had been disestablished, 521 F.Supp. 1072.*

[1, 2] The resolution of a dispute such as this involving Indian reservations turns on what Congress intended to accomplish at the time as a legal matter. *Rosebud Sioux Tribe v. Kneip*, 430 U.S. 584, 97 S.Ct. 1361, 51 L.Ed.2d 660; see *Mattz v. Arnett*, 412 U.S. 481, 93 S.Ct. 2245, 37 L.Ed.2d 92. The conclusions of the trial court on this point are persuasive, but are not considered to be findings of fact.

The method of examining legislative history and determining legislative intent in cases concerning Indian reservations has been addressed by the United States Supreme Court in recent times. Four such cases are especially significant to our problem. *Seymour v. Superintendent*, 368 U.S. 351, 82 S.Ct. 424, 7 L.Ed.2d 346, was decided in 1962 and concerned the Colville Indian reservation. The Court held that the North half of the reservation had been disestablished, but the South half remained in reservation status. The Act of Congress said to have disestablished the North half declared that it should be "vacated and restored to the public domain." 27 Stat. 62, 63. The relevant acts with regard to the

South half of the reservation allotted the land pursuant to the Congressional policy expressed in the General Allotment Act of 1887, 24 Stat. 390, but did not contain language of vacation and restoration or the term "public domain." *Seymour*, at 355, 82 S.Ct. at 427. The Court also mentioned subsequent legislative and administrative history of the South half of the reservation to support its conclusion that it was still a reservation. On these grounds the Court held that the South half of the reservation retained its status as Indian Country.

In *Mattz v. Arnett*, 412 U.S. 481, 93 S.Ct. 2245, 37 L.Ed.2d 92, decided in 1973, the Court held that the Klamath River reservation had not been disestablished. The Court made it clear that the allotment of lands within the reservation to resident Indians was consistent with reservation status and an opening for settlement in addition did not disestablish. Thus a more explicit indication of Congressional intent was necessary to disestablish. However, the Court did not rest its decision on the fact that the unequivocal language of vacation and restoration to the public domain that had been present in *Seymour* was absent in *Mattz*. Clearly the Court was unwilling to suggest that there were any special recitations the absence of which would mean that a reservation continued. In addition to considering the historical background of the reservation and the legislative history, the Court observed that several bills which contained clear language of disestablishment passed the House of Representatives but did not pass in the Senate. The Court interpreted the repeated failure of those bills as a sign of Congressional intent that the reservation continue. Thus the crucial point was not simply that the final Allotment Act for the Klamath River reservation lacked language of disestablishment, but that Congress had never at any stage permitted such language to be passed into law. It is important that in *Mattz* the Court stated that an opening of a reservation for settlement did not necessarily disestablish the reservation. This was referred to in the *Rosebud* opinion hereinafter considered. The settlement by

Indians and non-Indians was considered to be of benefit to the Indians.

The Court in *Mattz* discussed the subsequent jurisdictional history of the reservation as an illustration for its holding of continued reservation status rather than as a foundation for that holding. No detailed analysis of legislative intent was undertaken at the time of the Acts said to constitute disestablishment for any of these cases.

DeCoteau v. District County Court, 420 U.S. 425, 95 S.Ct. 1082, 43 L.Ed.2d 300, raised the question of whether the Lake Traverse Indian reservation survived a restoration to the public domain. The Court held that it did not, based also on the express Indian cession of the land. This feature of the *DeCoteau* case has no application to the case at bar but *DeCoteau* is important as to the significance of the phrase "public domain." The Court, in comparing the legislation there in question to other Indian agreements, stated, at 446, 95 S.Ct. at 1094:

"That the lands ceded in the other agreements were returned to the public domain, stripped of reservation status, can hardly be questioned, and every party here acknowledges as much. The sponsors of the legislation stated repeatedly that the ratified agreements would return the ceded lands to the 'public domain.'"

The Court speaks as if a restoration to the public domain settled the matter of disestablishment. The position of the two phrases suggests that "returned to the public domain" is synonymous with "stripped of reservation status." With regard to the question of jurisdictional history, the fact that the State of South Dakota had exercised virtually undisputed jurisdiction over the land was important to the Court's decision.

Rosebud Sioux Tribe v. Kneip, 430 U.S. 584, 97 S.Ct. 1361, 51 L.Ed.2d 660, is of overriding importance to the determination of the case before us because it is the most recent Supreme Court case on the subject and because it provides a detailed analysis. The facts of *Rosebud* are similar to those of

other disestablishment cases. The language on which the Court relies in finding disestablishment of the reservation in *Rosebud* does not contain a phrase analogous or similar to "vacated and restored to the public domain" of *Seymour*. *Rosebud* involved unilateral action by Congress rather than cession by the Indians. *Rosebud* lays out what the Court terms some "well-established legal principles." One of these is the general rule that doubtful expressions are to be resolved in favor of the Indians. The Court cautions that the resolution of doubt in favor of the Indians is not to be done by ignoring clear indications of Congressional intent, nor does this method of resolving doubt intrude on the Court's holding in *Lone Wolf v. Hitchcock*, 187 U.S. 553, 23 S.Ct. 216, 47 L.Ed. 299.

In *Lone Wolf* the Court held that Congress possessed the authority to abrogate unilaterally the provisions of an Indian treaty. This eliminated the notion that Congressional action with regard to an Indian reservation involved some sort of implied contract. After *Lone Wolf* in 1903 established that Congress could act unilaterally toward Indian lands and reservations, the only relevant inquiry became Congressional intent. This prevailed in *Rosebud* where the Congressional action under discussion was the ratification of an agreement with the Indians. It is significant to our problem that the Court in *Rosebud* held that a beneficial interest retained in the lands opened does not preserve to the reservation its original size and shape.

The guiding consideration in *Rosebud* is, of course, the determination of Congressional intent. The Court said of this in *Rosebud*:

"In all cases, 'the face of the Act,' the 'surrounding circumstances,' and the 'legislative history,' are to be examined with an eye toward determining what congressional intent was."

[3] Before turning to the application of these considerations, it is important to note one feature of the *Rosebud* analysis. In *Mattz v. Arnett*, as discussed above, the Court rejected the contention that bills

Cite as 716 F.2d 1298 (1983)

passed in one House of Congress but not the other, could be an indicator of Congressional intent. *Rosebud* gives a contrary signal as Congress had failed to ratify a 1901 agreement which would have disestablished the reservation but ratified a similar agreement in 1904. The Court observed that the 1901 agreement would unquestionably have changed the reservation boundaries had it been ratified. The 1904 ratification the Court stated evinced a continuity of purpose and language with the 1901 attempt. Therefore, the 1901 agreement even though not ratified demonstrated "an unmistakable baseline purpose of disestablishment." *Rosebud*, 430 U.S. at 592, 97 S.Ct. at 1366. This line of reasoning modifies *Mattz* in explaining techniques of determining Congressional intent. Under *Rosebud*, if the language of an earlier bill is sufficiently unequivocal, and a later Act can be shown to have accomplished the intended purpose of the first, then the first gains validity as an indicator of Congressional intent even though it did not pass both Houses. This analysis has important application in the case at bar.

In *Rosebud*, as in *DeCoteau*, the assumption of state jurisdiction for many years before the suit arose was fairly clear. All the same, the Court does not rely heavily on that history, but mentions it only after having arrived at a conclusion of disestablishment on the basis of legislative history and statutory construction.

It is clear from the above cases that the controlling factors are, of course, terms of the Act with legislative intent, but we are cautioned against relying on particular statutory language. However, a phrase such as "vacated and restored to the public domain" seems to be a sufficient though not a necessary factor in disestablishment. Compare *DeCoteau v. District County Court*, 420 U.S. 425, 95 S.Ct. 1082, 43 L.Ed.2d 300, with *Rosebud Sioux Tribe v. Kneip*, 430 U.S. 584, 97 S.Ct. 1361, 51 L.Ed.2d 660. *DeCoteau* implies that language restoring the reservation to the "public domain" may be enough to constitute disestablishment. The subsequent legislative and administrative history is sometimes used to support an interpreta-

tion of an Act. Finally, considerations of jurisdictional history and contemporary opinion on reservation status seem to be relied upon only where they are unequivocal. More often, they are discussed to demonstrate that they are not necessarily contrary to the conclusion already reached on the basis of statutory language and history.

[4] In determining legislative intent it is necessary to consider the legislation in its historical context and not as if it was passed today. *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191, 98 S.Ct. 1011, 55 L.Ed.2d 209. *Mattz* refers to the "surrounding circumstances." Thus a study of the purpose of any legislation involving the Indians would be incomplete and inaccurate without a consideration of the then prevailing policy on the subject. It is apparent that such policy does not follow an unwavering line, and may not appear in a very obvious way. However, in the case before us there was a very clear and drastic policy change which was put into operation throughout the West in all the larger Indian reservations. This was the General Allotment Act of 1887, 24 Stat. 390. This expressed the policy of replacing the reservations with allotments of a tract of land to each Indian to be owned individually. This was known as the Dawes Act and was introduced by Senator Dawes of Massachusetts. He had been active in groups seeking to improve the life of the Indians.

The Secretary of Interior commented when it was pending as a bill and said in part that it would:

"inspire the Indians with a feeling of assurance as to the permanency of their ownership of the lands they occupy and cultivate; it will give them a clear and legal standing as landed proprietors in the courts of law; it will secure to them for the first time fixed homes under the protection of the same law under which white men hold theirs; it will eventually open to settlement by white men the large tracts of land now belonging to the reservations but not used by the Indians. It will thus put the relations between the

Indians and their white neighbors in the Western country upon a new basis, by gradually doing away with the system of large reservations, which has so frequently provoked those encroachments which in the past have led to so much cruel injustice and so many disastrous collisions."

Report of the Secretary of the Interior, 1880, in serial 1959, pp. 5-6, 12.

Senator Dawes understood the Act to have as its goal the abolition of the reservation system. In addressing the Fifth Annual Meeting of the Lake Mohawk Conference of the Friends of the Indian, Senator Dawes stated:

"Suppose these Indians become citizens of the United States with this 160 acres of land to their sole use, what becomes of the Indian Reservations, what becomes of the Indian Bureau, what becomes of all this machinery, what becomes of the six commissioners appointed for life? Their occupation is gone; they have all vanished, the work for which they have been created . . . is all gone . . . You are not mending this fabric; you are taking it down stone by stone . . ."

Minutes of the Lake Mohawk Conference, 1887, pp. 12-13.

Thus in the period between 1897 and 1905 when legislation opening the Uncompahgre and Uintah reservations was passed, the policy embodied by the Dawes Act was in full force and being implemented. "Friends of the Indians" wished to abolish the reservations out of a genuine conviction that such an abolition would contribute to the Indians' welfare. Concurrently with Senator Dawes but separately there were present in a myriad of forms the forces of expansion always seeking the development of the West and especially seeking more land in the West. These forces were likewise effective in Congress at the time here concerned.

We cannot be here influenced by what Congress might have done. *Rosebud Sioux Tribe v. Kneip*, 430 U.S. 584, 97 S.Ct. 1361, 51 L.Ed.2d 660. We must instead decide what Congress in fact did. "[O]ur task here

is a narrow one . . . [W]e cannot remake history." *DeCoteau v. District County Court*, 420 U.S. 425, at 449, 95 S.Ct. 1082, at 1095, 43 L.Ed.2d 300.

The Utes argue that the original Uintah and Uncompahgre reservations exist to their original extent except as to a few relatively small tracts. The two reservations when created contained some 4,000,000 acres. In 1905, when Congress was considering legislation concerning the reservations, there were about 1,440 Utes in the three bands. There are now about 1,500 enrolled members of the tribe. Nearly all of these live on the trust lands (that is on allotments and tracts reserved for tribal use). Federal programs and services appear to be available to all regardless of the outcome of this case.

Under the decision of the trial court the non-Indian towns of Duchesne and Roosevelt are within what were considered to be the reservation boundaries. About 90 percent of the population of a reservation so constituted would live in these towns. Most of the lands opened for settlement are in Duchesne County. About 300 Indians live there, but all are not members of the tribe. No one challenges the Indians' claim to the tracts for grazing set apart for the Indians and, of course, to the allotments made to individual Indians (about 360,000 acres) nor to the lands restored in the 1940's to the Indians (some 217,000 acres) nor to the Hill Creek Extension of about 500,000 acres. The basic dispute is to the non-Indian owned portions of the original reservations, and the National Forest portion.

Before the present dispute the trust land, the reserves and the allotments were referred to as the "Ute reservation" or the "Uintah reservation," and this explains the occasional use of the terms when additions were made extending the reservation or extending the reservation boundaries.

I. THE UNCOMPAHGRE RESERVATION

The Uncompahgre reservation when established contained about 3,000 square

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miles and was apparently never occupied by more than several hundred Utes at any time. Most of them by 1905 had moved to the Uintah reservation, and they had taken allotments on that reservation rather than on the Uncompahgre.

In determining the status of the Uncompahgre reservation we are chiefly concerned with two pieces of legislation. The first is part of the Indian Appropriations Act of 1894, which contains this language:

"Sec. 20. That the President of the United States is hereby authorized and directed to appoint a commission of three persons to allot in severalty to the Uncompahgre Indians within their reservation, in the territory of Utah, agricultural and grazing lands . . . Said commissioners shall . . . report to the Secretary of the Interior what portions of said reservation are unsuited or will not be required for allotments, and thereupon such portions so reported shall, by proclamation, be restored to the public domain and made subject to entry as hereinafter provided.

"Sec. 22. That said commission shall also negotiate and treat with the Indians properly residing upon the Uintah Indian Reservation, in the territory of Utah, for the relinquishment to the United States of the interest of said Indians in all lands within said reservation not needed for allotment in severalty to said Indians, and if possible, procure the consent of such Indians to such relinquishment, and for the acceptance by said Indians of allotments in severalty of lands within said reservation, and said commissioners shall report any agreement made by them with said Indians, which agreement shall become operative only when ratified by Act of Congress."

Act of August 15, 1894, ch. 20, 28 Stat. 286, 337-338.

[5, 6] This Act directs the Secretary to immediately open the unallotted lands, after approval of the allotments to entry. The land reported as unsuitable shall "thereupon" be restored to public domain

by proclamation. The use of the then universally recognized term "public domain" in designating the eventual status of the land is of critical importance. The status of "public domain" there demonstrates an intent to disestablish. See *DeCoteau v. District County Court*, 420 U.S. 425, 95 S.Ct. 1082, 43 L.Ed.2d 300; *Seymour v. Superintendent*, 368 U.S. 351, 82 S.Ct. 424, 7 L.Ed.2d 346. Land to be in the "public domain" is inconsistent with reservation status or any particular use status. When public land is designated to be used for a particular purpose the land no longer remains in the "public domain." *Scott v. Carew*, 196 U.S. 100, 25 S.Ct. 193, 49 L.Ed. 403; *Wilcox v. Jackson*, 13 Pet. 498, 10 L.Ed. 264. Thus the creation of an Indian reservation or a forest or other particular use from public land removes it from the public domain. *Missouri, Kansas and Texas Ry. Co. v. Roberts*, 152 U.S. 114, 14 S.Ct. 496, 38 L.Ed. 377; *Leavenworth, Lawrence and Galveston Railroad Co. v. United States*, 92 U.S. 733, 23 L.Ed. 634. The "public domain" is a well-recognized description of the status of the land. It was probably more generally recognized at the time the acts in issue were passed than it is now. It is clear that the creation of an Indian reservation from "public lands" removes the subject lands from the public domain. The return of particular use lands to the public domain involves similar land status concepts, and "public domain" then must have the same meaning as it did before. In *DeCoteau v. District County Court*, 420 U.S. 425, 95 S.Ct. 1082, 43 L.Ed.2d 300, the Court held that public domain status and reservation status are mutually exclusive.

[7] Another feature of the 1894 Act is the presence of limitations on "entry" when the land is opened. The tribe argues with respect to the Uintah reservation that limitations on entry demonstrate that Congress did not intend full public domain status for the land. The opening of the Uncompahgre reservation disproves this theory both in the 1894 Act and in the legislative history of that Act. On the face of the 1894 Act the

term "public domain" appears simultaneously with provisions limiting entry. Clearly, Congress did not consider these two things to be inconsistent. The legislative history shows that the purpose of the limitation to homestead and townsite entry was not to permit the Indians to retain control of the land, but was to prevent land speculation. Congress gave a great deal of time and care to trying to prevent the land from being snapped up by speculators. 53 Cong. Rec. 7684 (1894); 53 Cong. Rec. 7258-59 (1894). At no time during these debates was there any discussion to suggest a continuing claim by the Indians. Rather the House debated whether the Indians would be required to pay for their allotted lands, implying that Indian title to the reservation was not secure even in 1894 without some payment. 53 Cong. Rec. 7258 (1894). The proper analysis is that once land has been again placed in the public domain it is open and free to the application of the public land laws. Congress may then make limitations on entry and location, but these do not change the status of the land.

A final note about the 1894 Act is that it provides that the commission appointed to allot to the Uncompahgres should also attempt to procure the agreement of the Uintah Indians to the relinquishment of their land. Thus as early as 1894, Congress contemplated the allotment and opening of the Uintah reservation. It is difficult to escape the impression that Congress hoped and sought to have allotments made to all the Indians as individuals, and to open the land in the reservations not so allotted under the public land laws.

Thus the 1894 Act, although it did not accomplish the opening of the reservation, persuasively indicates by the use of the term "public domain" that it was Congress' intent to remove this land from the Indian reservation. The power of this phrase is not weakened by any limitations on methods of entry to the land. We therefore conclude that this piece of legislation may be sufficient to demonstrate a "baseline" purpose to disestablish that later legislation carried through. The commission appointed by the 1894 Act failed in its efforts to make

allotments to the Uncompahgres and was disbanded in 1896.

In 1897, Congress enacted a provision which made the allotment and opening of the Uncompahgre reservation mandatory. Thus:

"The Secretary of the Interior is hereby directed to allot agricultural lands in severalty to the Uncompahgre Ute Indians now located upon or belonging to the Uncompahgre Ute Indian Reservation in the State of Utah, said allotments to be upon the Uncompahgre and Uintah Reservation or elsewhere in said State. And all the lands of said Uncompahgre Reservation not theretofore allotted in severalty to said Uncompahgre Utes shall, on or after the first day of April, eighteen hundred and ninety-eight, be open for location and entry under all the land laws of the United States, excepting, however, therefrom all lands containing gilsonite, asphalt, elaterite, or other like substances."

Act of June 7, 1897, ch. 3, 30 Stat. 62, 87.

The analogy to *Rosebud* which we have pursued here is not exact. The 1894 Act was in fact passed by both Houses of Congress, but its execution was not accomplished as we have seen. As an instrument of disestablishment it did not itself mandate the actual opening of the reservation, but the lands were to be restored to the public domain. When the lands became public domain they thereby were available under the public land laws to entry and location in the usual manner for all public lands. The "opening" and details for making entries were included in other acts to provide some organization to the expected rush to make entries. Thus the drawings here and at *Rosebud* were provided much like the simultaneous filings of today. Several hundred thousand people appeared for the Sioux drawings.

[8] As the trial court observed, legislative and administrative history supports the conclusion that the Uncompahgre reservation was disestablished. The commission attempted to make allotments after the

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opening date of the 1897 Act as if the land was on a reservation. The Commissioner of Indian Affairs was unsure of the legality of this, as the lands were now in the "public domain." Rept. of the Comm. of Ind. Aff., 1898, JX 108, in H.Doc. No. 5, 55th Cong. 3d Sess. In the next few years, there were concerns that even these allotments might fail, and the Indian agent suggested that these Indians abandoned the lands for lands on the Uintah reservation. See Letter from Acting Agent Mercer to Comm. of Ind. Aff. of Sept. 9, 1903, JX 174; Letter from Agency Clerk to the Agent of Aug. 31, 1903, JX 173; Letter from the Comm. of Ind. Aff. to Acting Agent Mercer of July 28, 1903, JX 170. Finally, by 1929, the Bureau of Indian Affairs seems clearly to have taken the position that the Uncompahgre reservation no longer existed. See Statement Concerning the Uncompahgre Grazing Reserve, Feb. 6, 1943, JX 451; Memorandum Relating to the Proposed Withdrawal of Certain Lands for Uncompahgre Ute Indians, Office of Indian Affairs, 1931, JX 426.

A final point illustrates both that "public domain" language was intended to apply through the 1897 Act to the Uncompahgres and that Congress, at least to some extent, considered the Uncompahgres and the Uintahs together when making law concerning the Indian reservation in Southern Utah. In the 1897 Act, it is expressly provided that the Uncompahgres may be given allotments on Uintah land. In 1902, in dealing with the Uintah reservation Congress again explicitly provided that the Uncompahgres be given allotments on Uintah land. 32 Stat. 245. This 1902 Uintah Act also contained "public domain" language. We do not rely on these connections, but they do provide some indicators of Congressional actions and intentions with regard to the Ute Tribe.

We understand Congress to have intended, and did disestablish the Uncompahgre reservation as concluded by the trial court.

II. THE UINTAH RESERVATION

An Indian reservation was established by President Lincoln in 1861 to encompass the

entire valley of the Uintah River within the Utah Territory. This was at the time the Government was attempting to have the Utes of Colorado and New Mexico and others settle in designated areas. The reservation was thus for any Indian. Congress confirmed the reservation in 1864 (13 Stat. 63). This in part said:

"Sec. 2. And be it further enacted, That the superintendent of Indian affairs for the territory of Utah be, and he is hereby, authorized and required to collect and settle all or so many of the Indians of said territory as may be found practicable in the Uinta valley, in said territory, which is hereby set apart for the permanent settlement and exclusive occupation of such of the different tribes of Indians of said territory as may be induced to inhabit the same." (Emphasis in original.)

The reservation contained about 3,186 square miles or 2,039,040 acres, and may have been established for many more Indians than those who "were induced to inhabit the same."

In the half century following the establishment of the reservation Congress enacted several laws which the counties and cities claim altered substantially the status of the lands initially encompassed within it. The Utes claim the entire reservation as initially created save for two small diminutions, and claim that the legislation did not affect their rights. The counties and cities claim that the legislation enacted between 1888 and 1905 diminished the original reservation by withdrawing acreage on several occasions: to enable mining in the area known as the Gilsonite Strip; to enlarge the Uintah National Forest; and to create an irrigation project along the Strawberry River. The counties and cities also claim that the Acts of Congress in 1902 and in 1905 directed that allotments of lands in the reservation be made to individual Indians and provided that all lands not allotted were restored to the public domain, and thereby were no longer a part of the reservation.

The Gilsonite Strip Withdrawal

[9] The first of the Acts of Congress was directed to a 7,000-acre tract in the reservation. In 1886 a prospector had located mining claims on the Uintah reservation for the mineral gilsonite. The land in question was not then being used by the Indians for agricultural or grazing purposes. Congress in 1888 passed an Act which mandated that the 7,040-acre "Gilsonite Strip" be "declared to be public lands of the United States and restored to the public domain." Act of May 24, 1888, ch. 310, 25 Stat. 157. The Act directed the Secretary of the Interior to procure the approval of a three-fourths majority of the adult male Indians, and to sell the land. Approval was secured and some sales made. The proceeds were credited to the Utes. The trial court found, and the parties do not dispute on appeal, that the Gilsonite Strip was removed from the reservation. We agree with this conclusion. The 1888 Act contained a significant restriction on the manner of entry after the lands were restored to the public domain. Thus the lands were to be sold in lots not exceeding one-quarter section in size. The parties do not dispute that this limitation on the manner of the disposition did not affect its removal from the reservation and restored it to the "public domain."

Unallotted Lands

During the 1890's and thereafter there was increasing pressure on Congress and the President to open parts of most of the large Indian reservations in the West to settlement by non-Indians, and also to have the Indians own individually tracts of land for their own betterment. We have mentioned these two movements in this opinion. The literature of the time and the court opinions refer to these as the "familiar forces."

The familiar forces thus sought to remove parts of the Uintah Valley reservation from reservation status and so to permit individual ownership by the Indians and to open it for settlement and mining. Thus in this context, with the recognized policy evidenced by the General Allotment Act,

and the opening of other reservations, the Uintah Valley reservation was not an isolated instance where the "familiar forces" brought about changes. The people seeking the changes as a betterment for the Indians were sincere in their views. Many public figures advocated individual ownership by Indians, as indeed did a majority in the Congress and the President. The General Allotment Act must be taken as one example and is a clear and definite expression of the policy. Directions to carry it out were included in many pieces of legislation. This was the dominant feeling and policy of the time, the time when the legislation herein considered was passed. Its intent and purpose must be determined in that context, and not as the policies may now exist. Thus Congress in 1888 (25 Stat. 157) declared that a described portion of the Uintah Valley reservation "is hereby declared to be public lands of the United States and restored to the public domain." The Act provided that the restoration be effective upon ratification by three-fourths of the Indians on the reservation. This ratification was not obtained.

Congress also had commissions appointed to negotiate allotments and cessions of the Uncompahgre and Uintah reservation in 1894, 1897 and 1898.

Then on May 27, 1902 Congress included as part of the Indian appropriations bill a direction that allotments be made to all adult White River and Uintah Utes. This included a provision restoring any unallotted lands of the 1864 Uintah reservation to the "public domain." Act of May 27, 1902, 32 Stat. 245, 263. The provision, in pertinent part, is as follows:

"That the Secretary of the Interior, with the consent thereto of the majority of the adult male Indians of the Uintah and the White River tribes of Ute Indians, to be ascertained as soon as practicable by an inspector, shall cause to be allotted to each head of a family eighty acres of agricultural land which can be irrigated and forty acres of such land to each other member of said tribes, said allotments to be made prior to October first, nineteen

hundred and three, on which date all the unallotted lands within said reservation shall be restored to the public domain." The term "public domain" was used twice more in the later portions of the Act. This was one of several connected acts about which this dispute is centered and the references to "public domain" status for the lands not allotted to individual Indians are very significant to the arguments of the parties and to the position taken by the trial court. Congress thereafter used appropriation acts in 1903, 1904 and 1905 to extend the time for opening and to insert added provisions. This was a series of acts with no express words of amendment and with express repeal of relatively small elements in the prior acts.

The trial court reasoned that the Supreme Court's holding in *Seymour v. Superintendent*, 368 U.S. 351, 82 S.Ct. 424, 7 L.Ed.2d 346, compelled a finding that the language of the 1902 Act providing that all of the unallotted lands "shall be restored to the public domain" would have disestablished the reservation had the unallotted lands then been opened for settlement. The trial court reasoned, however, that this 1902 Act was so changed by a 1905 enactment that such a result did not come about.

The Utes attempt to distinguish *Seymour* by arguing that this 1902 Act may restore the unallotted lands to the public domain, but there is also needed a provision that the lands be vacated by the tribe before the lands are restored to the public domain. They argue that the cases uniformly provide independent language to indicate that the reservation boundaries would be extinguished or adjusted at the same time that public entry was allowed is necessary to disestablish. They cite *DeCoteau v. District County Court*, 420 U.S. 425, 445-46, 95 S.Ct. 1082, 1093-94, 43 L.Ed.2d 300 (the express language of cession and relinquishment of reservation lands restored them to the public domain); *Rosebud Sioux Tribe v. Kneip*, 430 U.S. 584, 97 S.Ct. 1361, 51 L.Ed.2d 660 (Act of March 2, 1889, § 21, 25 Stat. 896, created six separate reservations from the Great Sioux reservation and "all the lands

in the Great Sioux Reservation outside of the separate reservations herein described are hereby restored to the public domain," 25 Stat. at 896); *Seymour v. Superintendent*, 368 U.S. 351, 82 S.Ct. 424, 7 L.Ed.2d 346 ("vacated and restored to the public domain"); *Starr v. Long Jim*, 227 U.S. 613, 33 S.Ct. 358, 57 L.Ed. 670 (Secretary of the Interior to cause the quantity of land allowed Indians remaining on the reservation to be selected in as compact a form as possible, the remainder to be restored to the public domain, Act of July 4, 1884, 23 Stat. 76); *Russ v. Wilkins*, 624 F.2d 914 (9th Cir.) (explicit description of new reservation boundaries, the remainder "restored to the public lands of the United States," 17 Stat. at 634). These cited cases, as indicated by the notes, are however a mixture of statutory provisions, and do not stand for a proposition that a provision vacating the reservation or describing new boundaries is required for disestablishment.

[10] The argument that the operative language of restoration must contain independent language adjusting or extinguishing reservation boundaries is unpersuasive. The Supreme Court has never mentioned such a requirement, see, e.g., *Rosebud Sioux Tribe v. Kneip*, 430 U.S. 584, 97 S.Ct. 1361, 51 L.Ed.2d 660; *Seymour v. Superintendent*, 368 U.S. 351, 82 S.Ct. 424, 7 L.Ed.2d 346, and we see no reason to impose one now. The trial court was correct in determining that the 1902 Act would have accomplished the disestablishment of the reservation as to unallotted lands had the lands been then opened. An additional factor relative to the 1902 Act was an addition to it providing for a tract of grazing land to be set apart for the common use of the Indians to meet the reasonable need of the Indians. This provision was added by a joint resolution on June 19, 1902 (32 Stat. 744). It in part provided:

"In addition to the allotments in severalty to the Uintah and White River Utes of the Uintah Indian Reservation in the State of Utah, the Secretary of the Interior shall, before any of said lands are opened to disposition under any public

land law, select and set apart for the use in common of the Indians of that reservation such an amount of nonirrigable grazing lands therein at one or more places as will subserve the reasonable requirements of said Indians for the grazing of live stock."

This addition is significant in evaluating the 1902 Act and further demonstrates the status of the reservation lands before the opening.

After the 1902 Act

The Indian consent required by the 1902 Act was not forthcoming within the time limit to make the allotments, and Congress had to take further action. However, the matter was influenced in a very substantial way by the decision of the Supreme Court in *Lone Wolf v. Hitchcock*, 187 U.S. 553, 23 S.Ct. 216, 47 L.Ed. 299, decided January 5, 1903. The Court there held that Congress could unilaterally change Indian reservations; that no tribal or Indian consent was required; and that there was no contractual relationship between the Government and the tribe arising from the establishment of a reservation. As is apparent, this had significant implications on what Congress was trying to accomplish as to this reservation and as to others.

In another appropriation act Congress by the Act of March 3, 1903 (32 Stat. 982) again extended the time for opening the unallotted lands for entry as provided in the 1902 Act, and eliminated any reference to consent of the Indians.

In 1904, Congress again extended in an appropriation act the time for the opening to March 10, 1905 so that surveying could be completed and allotments made. Act of April 21, 1904, 33 Stat. 189, 207.

[11] The trial court held, and the parties do not dispute on appeal, that the 1903 and 1904 Acts did not affect the operative terms of the 1902 Act. We agree.

The time set by the 1904 Act for allotments to be completed (March 10, 1905) was running out and Congress again used an appropriation act to extend the time. How-

ever, there were added this time some new provisions by this Act of March 3, 1905 (33 Stat. 1048). There were provided more details as to the opening of the unallotted lands for entry, and restrictions were added as well which were of significance.

This 1905 Act in part provided:

"That the said unallotted lands, excepting such tracts as may have been set aside as national forest reserve, and such mineral lands as were disposed of by the act of Congress of May twenty-seventh, nineteen hundred and two, shall be disposed of under the general provisions of the homestead and town-site laws of the United States, and shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the manner in which these lands may be settled upon, occupied, and entered by persons entitled to make entry thereof;

"That before the opening of the Uintah Indian Reservation the President is hereby authorized to set apart and reserve as an addition to the Uintah Forest Reserve, subject to the laws, rules, and regulations governing forest reserves, and subject to the mineral rights granted by the act of Congress of May twenty-seventh, nineteen hundred and two, such portion of the lands within the Uintah Indian Reservation as he considers necessary, and he may also set apart and reserve any reservoir site or other lands necessary to conserve and protect the water supply for the Indians or for general agricultural development, and may confirm such rights to water thereon as have already accrued: *Provided*, That the proceeds from any timber on such addition as may with safety be sold prior to June thirtieth, nineteen hundred and twenty, shall be paid to said Indians in accordance with the provisions of the act opening the reservation." (Emphasis in original.)

The Relationship of the 1902 and 1905 Acts

This court considered the relationship of the various enactments concerning the Uin-

tah reservation and certain issues regarding the status of the unallotted lands in *Hanson v. United States*, 153 F.2d 162 (10th Cir.). We there concluded that the issue had to be decided under the 1902 Act, and that the 1905 Act merely extended the date of opening of the reservation and did not affect the operative terms of the 1902 Act.

What is advanced as "limitations" on disposition in the 1905 Act is the provision that the unallotted lands were to be disposed of under "the general provisions of the homestead and town-site laws, . . . and shall be opened to settlement and entry by proclamation of the President." The 1905 Act does not specifically utilize or repeat the "public domain" language of the 1902 Act.

[12] The provision that the lands be opened under the homestead and townsite laws does not constitute a substantial restriction which militates against the conclusion that the public domain intent in the 1902 Act was carried over into the 1905 Act. The limitation in the *Rosebud* opening is comparable as is *Starr v. Long Jim*, 227 U.S. 613, 33 S.Ct. 358, 57 L.Ed. 670. The provisions considered in *Mattz v. Arnett*, 412 U.S. 481, 98 S.Ct. 2245, 37 L.Ed.2d 92, and in *Seymour v. Superintendent*, 368 U.S. 351, 82 S.Ct. 424, 7 L.Ed.2d 346, do not lead to a contrary conclusion. In the case before us the provisions in the prior acts dictated the public domain conclusion under the 1905 Act.

Nothing in the Congressional debates suggests an attempt to change the 1902 intent. See 39 Cong.Rec. 1181-85, January 21, 1905. Rather, Congress was concerned in 1905 with the possibility that land speculators would deprive actual homeseekers of the choicest land. "Indian Appropriations Bill, 1906," Hearings, Subcomm. of the Sen. Comm. of Ind.Aff., 58th Cong., 3d Sess. (1905).

The intent of the 1905 Act was thus to effect the restoration of the unallotted lands to the public domain and to allow entry under the homestead and townsite laws to prevent speculation.

Evidence of this intent can be found in the Committee Report to S. 6867 in 1905, a bill which used language virtually identical to that found in the 1905 Act. There the report included letters from the Commissioner of Indian Affairs and from the Commissioner of the General Land Office which referred to the lands as being in the public domain or as public lands. S.Rep. No. 4240, 58th Cong., 3d Sess. (1905).

It is difficult to accept the argument that limitations on the manner of entry necessarily vitiate Congressional intent to disestablish the reservation in view of the Gilsonite Strip withdrawal herein considered. There, some 7,000 acres were restored to the public domain subject to a limitation on disposition to purchase with a maximum number of acres. As we have noted, neither party disputes that the strip was removed from reservation status. Thus limitations on entry are not necessarily inconsistent with the disestablishment. As mentioned in the *Rosebud* opinion Congress knew what operative words were needed to accomplish the purpose.

As mentioned, the changes were accomplished by a series of provisions contained in Indian appropriation acts of 1902, 1903, 1904 and 1905. Each act built on the ones before, and especially by "extending" the time for opening from those provided before. This shows a continuous process brought about by the delays encountered on the ground. The acts also did not seek to expressly amend the prior act but, as mentioned, built on the one before. This prevails as to matters other than time "extensions." There were several express repeals, but only as to specific elements which were not of significance. Thus there were no general repeals but only additions of items here of concern. This cumulative series of enactments should be compared to the position taken by the Supreme Court in *Rosebud*, as we have already mentioned. There an agreement that failed to be ratified by Congress in 1901 could be considered in determining the intent of a 1904 Act. The 1904 Act or agreement indicated continuity of purpose and language with the 1901 attempt. The 1901 agreement showed "an

unmistakable baseline purpose of disestablishment." *Rosebud*, 430 U.S. at 592, 97 S.Ct. at 1366. This same demonstration of continuity is present in the case before us and the 1902 Act does also show a "baseline purpose of disestablishment." Again, the persuasiveness is greater here because the earlier language was in acts that passed both Houses and not in bills that failed.

Even if it were not clear from the terms of the 1905 Act and its legislative history that the 1905 Act was not intended to affect the substantive terms of the 1902 Act, 39 Cong.Rec. 3868, 3919, 39 Cong.Rec. 1181-83, the contemporaneous and subsequent legislative and administrative treatment of the unallotted lands confirms that they were part of the public domain.

The most important indication of the effect of the 1905 Act is President Roosevelt's Proclamation of July 14, 1905 which stated, in relevant part:

"Whereas it was provided by the Act of Congress, approved May 27, A.D., 1902 (32 Stat., 263), among other things, that on October first, 1903, the unallotted lands in the Uintah Indian Reservation, in the State of Utah, 'shall be restored to the public domain: Provided, That persons entering any of said lands under the homestead laws shall pay therefor at the rate of one dollar and twenty-five cents per acre'.

"And, whereas, the time for the opening of said unallotted lands was extended to October 1, 1904, by the Act of Congress approved March 3, 1903 (32 Stat., 998), and was extended to March 10, 1905, by the Act of Congress approved April 21, 1904 (33 Stat., 207), and was again extended to not later than September 1, 1905, by the Act of Congress, approved March 3, 1905 (33 Stat., 1069), which last named act provided, among other things:

"Now, therefore, I, Theodore Roosevelt, President of the United States of America, by virtue of the power in me vested by said Acts of Congress, do hereby declare and make known that all the unallotted lands in said reservation, excepting

such as have at that time been reserved for military, forestry and other purposes, and such mineral lands as may have been disposed of under existing laws, will on and after the 28th day of August, 1905, in the manner hereinafter prescribed, and not otherwise, be opened to entry, settlement and disposition under the general provisions of the homestead and townsite laws of the United States"

Presidential Proclamation of July 14, 1905, 34 Stat., pt. 3, 3119.

[13] The lands were to be opened by a presidential proclamation, and of great significance in any determination of the intent of Congress is the executive implementation of the legislation. The proclamation is very similar in all significant respects to the *Rosebud* proclamation. This proclamation, with its references and adoption of terms from the 1902 Act, in our view demonstrates the continuation of the 1902 provisions, and confirms the public domain status of the unallotted lands. The proclamation is "an unambiguous, contemporaneous, statement, by the Nation's Chief Executive, of a perceived disestablishment" of the reservation. *Rosebud Sioux Tribe v. Kneip*, 430 U.S. at 602-3, 97 S.Ct. at 1371.

[14] A further indication that the unallotted lands were no longer part of the reservation after it was opened is the subsequent restoration of some of those lands to reservation status for the Utes. Much if not all of the unallotted lands on the original Uintah reservation which had not been disposed of under the public land laws were restored in 1945. The Order of Restoration recites that "pursuant to the provisions of the act of May 27, 1902 (32 Stat. 263)" the unallotted lands were made subject to disposal under the laws applying to public lands. As indicated this restoration acknowledges that the opening was under the 1902 Act. Section 3 of the Reorganization Act provides that the Secretary of the Interior is authorized "to restore to tribal ownership the remaining surplus lands of any Indian reservation heretofore opened, or authorized to be opened." Act of June 18, 1934, 73rd Cong., 2d Sess., § 3. Neither

party disputes that the restorations accomplished pursuant to § 463 of 25 U.S.C. made them part of the reservation. We agree. This restoration included about 217,000 acres.

Much later administrative treatment of the unallotted lands also confirms the proposition that those lands were restored to the public domain. See, e.g., Opinion of the Solicitor of the Department of the Interior, January 27, 1947, 59 I.D. 393 (unallotted lands were "restored to the public domain pursuant to the Act of May 27, 1902, as amended. . . . Although the lands were restored to the public domain, they were subject to disposition only under the Act of May 27, 1902, as amended." *Id.* at 393, 394); Letter from the Commissioner of Indian Affairs to the Secretary of the Interior, June 19, 1941.

[15] The largest single addition occurred in 1948 when Congress added the Hill Creek Extension of some 510,000 acres of the former Uncompahgre reservation to the Uintah and Ouray reservation. Act of March 11, 1948, ch. 108, 62 Stat. 72.

We have also examined the maps introduced by the parties and the governmental statistics setting forth the acreage of the reservation and find them to support the position taken by the counties and cities. Statements made by the Utes themselves also tend to detract from their position. For example, the 1957 Ute Ten Year Development Program provides a description of the total acreage of the Uintah and Ouray reservation as currently containing 1,010,000 acres. In detail, it delineates, "The original area of the Uintah Reservation in Wasatch, Duchesne and Uintah Counties were reduced as follows. . . ." (The document then details the Gilsonite Strip reduction, the 1905 addition to the Uintah Forest Reserve, the Strawberry River reduction, the 1902 grazing reserve and allotments to individual Indians and "[a]pproximately 798,877 acres were disposed of by the United States for cash, or otherwise set aside and taken for its own use at various times since the opening of the reservation in

1905.") The statistics of the Office of Indian Affairs show similar figures.

Both parties have introduced substantial evidence regarding administrative and legislative appellations to the "current" or "former" status of the reservation. Our review of those references evinces no discernible Congressional intent one way or the other. There is simply no consistent, clear and uniform identification of the reservation's status in the subsequent legislative record. Analysis of the newspaper accountings of the events occurring on the reservation is similarly opaque.

Thus, after closely examining the record as it relates to the unallotted lands, we must conclude that the trial court erred in holding that the unallotted lands were not returned to the public domain pursuant to the 1902 Act.

Other Issues—Pre-opening Withdrawals Forest Reserve Lands

Besides extending the time of entry under the 1902 Act and describing the entry thereunder, the 1905 Act also provided that before the opening the President was authorized to set apart and reserve lands in the reservation as an addition to the Uintah Forest Reserve. 33 Stat. 1070. Specifically, the Act states:

"That before the opening of the Uintah Indian Reservation the President is hereby authorized to set apart and reserve as an addition to the Uintah Forest Reserve, subject to the laws, rules and regulations governing forest reserves, . . . such portion of the lands within the Uintah Indian Reservation as he considers necessary . . ."

By proclamation, President Theodore Roosevelt withdrew 1,010,000 acres from the Uintah reservation for that purpose. Proclamation of July 14, 1905, 34 Stat. pt. 3, 3116. The reserve was created pursuant to specific authority under the 1905 Act and the general authority he already had.

The trial court found that the presidential forest reserve proclamation extinguished those portions of the reservation included therein. On appeal, the Utes ar-

gue that the statutory language of the 1905 Act and the contemporaneous legislative history did not extinguish the reservation boundaries nor did Congress ever enact subsequent legislation to extinguish the Utes' title. In the proclamation creating the forest reserve out of the reservation lands it was expressly provided that the reserve be an addition to the Uintah Forest Reserve which theretofore existed. The addition was to be "subject to the laws, rules, and regulations governing forest reserves."

Our review of the 1905 Act, the presidential proclamation, the pertinent legislative history and the subsequent treatment of the subject lands convinces us that the forest reserve lands are not part of the reservation. No express language of termination of Indian jurisdiction over the Forest Service lands or an express extinguishment of the reservation boundaries was required. As we noted previously the Supreme Court has held that the "clear language of express termination" is not a required talisman for termination or disestablishment. *Rosebud Sioux Tribe v. Kneip*, 430 U.S. 584, 588 n. 4, 97 S.Ct. 1361, 1364 n. 4, 51 L.Ed.2d 660. The authority was present and was exercised to so change the land status from reservation lands to public forest reserves. The administrative authority over the lands was transferred from the Secretary of the Interior to the Secretary of Agriculture pursuant to the Act of February 1, 1905, ch. 288, 33 Stat. 628, and subjected the Forest Service lands to an entirely different regulatory regime. By transferring of reservation status to the status of the Forest Service lands thus for public use and by shifting the administrative authority over them, Congressional intent to remove the lands from the reservation is clearly evidenced.

Our holding that Indian jurisdiction is inconsistent with the land's status as forest reserve land is consonant with recent holdings by the Court of Claims and the Ninth Circuit. Both courts held that the designation of land as a forest reserve is itself effective to extinguish Indian title. *United States v. Pueblo of San Ildefonso*, 513 F.2d 1883, 1886, 1391-93 (Ct.Cl.); *United States v. Gemmill*, 535 F.2d 1145 (9th Cir.). The

Ninth Circuit went on to find that "any ambiguity about extinguishment that may have remained after the establishment of the forest reserves, has been decisively resolved by congressional payment of compensation to the . . . Indians for these lands." *Id.* at 1149. The Utes received \$1,217,000.00 in compensation. The situation before us is very similar as Congress added to a forest reserve by removing lands from an Indian reservation and later compensating the Indians for the lands. The trial court was correct in finding that the 1,010,000 acres withdrawn pursuant to the July 14, 1905 presidential proclamation were no longer part of the Uintah reservation.

The Strawberry River Reclamation

The third major part of the 1905 Act authorized the President before the reservation was opened to "set apart and reserve any reservoir site or other lands necessary to conserve and protect the water supply for the Indians or for general agricultural development." President Roosevelt withheld from disposal 56,000 acres along the Strawberry River for reclamation purposes pursuant to that authority in August 1905. Presidential Proclamation of August 3, 1905, 34 Stat. pt. 3, 3141.

Five years later, Congress compensated the Utes for the Strawberry River lands and clearly extinguished any Indian interest in the lands by providing that "[a]ll right, title, and interest of the Indians in the said lands are hereby extinguished, and the title, management and control thereof shall pass to the owners of the lands irrigated from said project . . ." Act of April 4, 1910, 36 Stat. 269, 285.

Neither side disputes the trial court's holding that the reservation was diminished to the extent of the 56,000-acre Strawberry River withdrawal.

The withdrawal of lands for the Strawberry River irrigation project does not give rise to any implication that the unallotted lands remained part of the reservation. The Strawberry River lands were set apart

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and reserved on August 3, 1905, over three weeks prior to the opening of the reservation on August 28, 1905. Affirmative action to remove the Strawberry River lands from the reservation was then necessary because the reservation had not yet been opened. The Strawberry River withdrawal has no bearing on the status of lands which were subsequently to be opened to the public domain.

III. CONCLUSION

We summarize our conclusions as follows:

1. We affirm the trial court's holding that the original Uncompahgre reservation was disestablished by Congress pursuant to the Act of June 7, 1897 and no longer exists.

2. We affirm the trial court's holding that prior to August 28, 1905, the original boundaries of the Uintah Valley Indian reservation were diminished by Congress through the withdrawal of the Gilsonite Strip in 1888, by the withdrawal of 1,010,000 acres subsequently made part of the Uintah National Forest, and by the withdrawal of approximately 56,000 acres for the Strawberry River irrigation project.

3. We affirm the trial court's finding that the 510,000-acre Hill Creek Extension was incorporated within the Uintah and Ouray Indian reservation.

4. As to the Uintah Valley reservation, we must reverse the holding of the trial court that the unallotted lands at the opening remained part of the reservation. Instead it is our judgment that the then unallotted lands lost all reservation status, became part of the public domain, and not within the reservation for any purpose when the reservation was opened, subject only to the special tracts herein discussed set apart for specific uses before the land was opened, and subject to valid mineral claims specifically provided for in the Acts of 1902, 1903, 1904 and 1905 and valid claims made under the general mining laws.

IT IS SO ORDERED.

WILLIAM E. DOYLE, Circuit Judge, will write a separate dissenting opinion.

WILLIAM E. DOYLE, Circuit Judge, dissenting.

PRELIMINARY STATEMENT DISCUSSION OF ISSUES

I respectfully dissent, particularly with respect to the decision determining that the Uintah lands have become a part of the public domain. In essence, I favor the position that was taken by the District Judge Jenkins, who generally ruled that the Uintah Reservation and its lands remain the property of the tribes that are involved. I would, however, reverse the trial court's determination that the withdrawal of the Uintah National Forest means that the Indians lost title to that land.

The trial court recognized that concurrent with the drive to open up the Uncompahgre Reservation there was also an effort to negotiate an agreement with the Uintah and White River bands. *Ute Indian Tribe v. State of Utah*, 521 F.Supp. 1072, 1111 (D.Utah 1981). This was short of a return to the public domain. It would have provided for the allotment of their lands and for the cession of the unallotted surplus acreage. Bills were introduced in Congress in 1894 providing for the allotment and opening of both reservations. In fact contained in H.R. 6557 there were provisions included in the Indian Appropriations Act for 1894 §§ 20-23. But it is important to note that under the provisions of the Act distinction was made between the legislative approach to the Uncompahgre Reservation and the approach to the Uintah Valley Reservation.

With respect to the Uncompahgre Reservation a commission was appointed to proceed directly with the allotment of the Uncompahgre lands but a separate provision treated the Uintah Reservation Indians. The commission was directed in section 22 to negotiate with those Indians "residing upon the Uintah Indian Reservation, in the Territory of Utah, for the relinquishment to the United States of the interest of said Indians in all lands within said reservation not needed for allotment in severalty to

said Indians." The object was merely to obtain the consent of such Indians to such relinquishment and for the acceptance by said Indians of the allotments and severalties of lands within their Reservation. The commissioners were directed to report on an agreement made by them with the Indians which agreement would become operative only when ratified by Act of Congress.

It was said in the House report that: "The rights of the Indians on the Uintah Reservation differ from those of the Indians upon the Uncompahgre Reservation. The Uncompahgre Indians have no title to any of the lands within the reservation, nothing more than the privilege of temporary occupancy." House Report, No. 660, LD30, at 1. The Indians of the Uintah Reservation, the Assistant Attorney General found, were the owners of the land within the Reservation because in the Act of Congress of May 5, 1964 a provision was made that the land within the Uintah Reservation should be "set apart for the permanent settlement and exclusive occupation of the Indians' . . . to make available for settlement any portion of the lands within the Uintah Reservation." *Id.*, at 2-3. The report said: "it is first necessary to obtain the consent of the Indians residing thereon."¹ The bill provided that the commissioners appointed "shall treat with the said Indians for the purpose of obtaining a relinquishment of their title to any lands not needed for allotment to Indians." The Supreme Court in *Mattz v. Arnett*, 412 U.S. 481, 496, 93 S.Ct. 2245, 2253, 37 L.Ed.2d 92 (1973) made it plain that the effort in the opening of the reservation in that case was not to do away with the continued reservation status. The object was to arrange for a system under which Indians could own land on the reservation with the federal government acting as guardian and trustee for the Indians which would be regarded as beneficial to the development of its wards.

In contrast to this, as to the Uncompahgre Reservation which was directly south of the Uintah Reservation, the object

1. This consent in this instance is of real importance because it recognizes that the rights of

of Congress was particularly vague. However, the first duty of the Commission was to deal with the Uncompahgre Indians according to the Act of 1894. Actually the work of the Commission, shown by the report of the Senate, did not make any progress at all with respect to the Indians of the Uintah Reservation. The majority in the present appeal feel that Congress was aware that the reservations were to be terminated by legislation that expressly restored the Indians' land to the public domain. The legislative history of the 1905 Act showed that as to the Uintah Reservation the Senate purposely voided the earlier acts which would have affected the Reservation and rejected the 1905 House proposals that contained express "restored to the public domain" language. Thus the 1905 Act has to be read as opening the Reservation in only a limited way. Since there was no intent to terminate it entirely, no such intention was shown, hence it cannot be implied.

The majority opinion disagrees with the trial court's extensive consideration of the 1905 Act's basic objective. The majority opinion argues that the Act's development was merely an extension of the original 1902 Act and did not repeal the earlier legislation. Thus the 1902 Act's termination language ought to apply to the Uintah Reservation. In actual practice it never was so regarded by the Congress or by the Department of Interior. Meanwhile 80 years passed since the enactment and no change has been made to this day.

The majority opinion also has cited other Indian reservation cases decided by the Supreme Court. The majority opinion states that the operative language in the 1905 Act opening the Uintah's land to non-Indian settlers, "under the homestead and townsite laws," is equivalent to "restored to the public domain;" the only phrase that the Supreme Court has recognized as terminating reservations that were not expressly ceded by a tribe. I submit that a proper reading recognizes a vast difference between restor-

the Uintah Tribe are substantial and that they actually own the land.

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ing land to the public domain and a partial opening of the Reservation for homestead and townsite purposes. The slight opening here was for homestead and townsite purposes. Neither the Reservation or its lands generally were disturbed. I have no criticism of the Act of Congress which opened the land to non-Indian settlers for homestead purposes; this is consistent with continuation of the Reservation identity as well as the unallotted lands. Here there was no intention of Congress to deprive the Indians of their land.

It is highly significant that the position taken in this case by the United States and the State of Utah support the position of the Indians in this legislation. I regard this as highly cogent. If the Uintah Reservation were ripe for return to the public domain the Government would not be arguing in favor of the Ute tribes.

The only litigant in this case which takes issue with the position of the Tribes is the *cities and counties*. This is due to the fact that there are two cities which have grown up within the boundaries of the Reservation. The presence of these cities and counties is insignificant with respect to the issue which is here being considered. They have no minimal standing to try to strip the Tribes of their land.

This present action does not seek to interfere with the mentioned cities and counties. These are individual modifications but they go no further than the two counties and the two cities within the counties. Once again the State of Utah has also fully endorsed the position of the Tribe in this case. The State of Utah chose to submit the trial court's opinion as its brief rather than make "unsupportable arguments" against that decision.

What is at stake then in this appeal is jurisdiction, civil, criminal, regulatory and taxation, over Indians and over non-Indians who have transactions with Indians in the disputed lands, together with the authority of the United States to administer the area and part of the Uintah Reservation. See *DeCoteau v. District County Court*, 420 U.S.

425, 427 n. 1, 95 S.Ct. 1082, 1084 n. 1, 43 L.Ed.2d 300 (1975).

Indian country has been defined as dependent Indian communities; the State of Utah may have had jurisdiction over the predominantly non-Indian communities of Duchesne and Roosevelt even though, in the trial court's decision, they would be geographically located within the Uintah Reservation. 18 U.S.C. § 1151(b) (1976); *Weddell v. Meierhenry*, 636 F.2d 211, 213 (8th Cir.1980), cert. denied, 451 U.S. 941, 101 S.Ct. 2024, 68 L.Ed.2d 329 (1981).

The important point is that, other than the two cities and counties mentioned, the remainder of the property that is in dispute here has had continuous recognition as Indian country and it continues to be so recognized. The majority opinion also recognizes that the Indians who reside in this area have certain claims, even though some of them are not members of the Uintah Tribe, but the Tribal members have claims to tracts for grazing, etc. The allotments made to individual Indians totals about 360,000 acres. There are about 217,000 acres which have been restored to the Indians in 1940. A fact that is recognized by the trial court is that the Hill Creek extension of about 500,000 acres is recognized as the property of the Indians. So, the fact that there have been homestead rights to non-Indians within the Reservation cannot be regarded as too significant in relationship to termination of the reservation or the tribal lands. The majority opinion recognizes that the reserves and the allotments have at all times been referred to as being within the Ute Reservation or the Uintah and Ouray Reservation "and this explains the occasional use of the terms when additions were made extending the Reservation or the Reservation boundaries."

Other cases in which courts have upheld a reservation's continuing existence have had far stronger indications of congressional intent to end the reservations on the face of the opening acts than are present in our case. Here there is a dearth of such evidence. In *Confederated Salish & Kootenai Tribes v. Namen*, 665 F.2d 951 (9th Cir.

1982), sections in the opened lands were reserved for schools. That action did not indicate any intent to return to the public domain. The Ninth Circuit denied the kind of relief which is sought here. This partial assumption of control did not terminate the Reservation. There was not a return to the public domain. See *Rosebud*, 430 U.S. 584, 611-14, 97 S.Ct. 1361, 1375-76, 51 L.Ed.2d 660 (1977).

This is another indication that Congress is at liberty to provide for other uses of the land within the Reservation without disturbing the Reservation as a legal entity.

In *Kootenai Tribes* opening legislation also extended a federal ban on liquor to the opened lands; something Congress would have thought necessary if it intended to terminate the Flathead Reservation because the Indians then could no longer have been in "Indian country" where intoxicants were automatically banned. *Id.* Notwithstanding this evidence of Congress' intent to end the Flathead Reservation, the absence of express termination language on the face of the act together with the lack of cession agreement, convinced the Ninth Circuit that the reservation had not been disestablished. 665 F.2d at 955-56. Circuit Judge Pregerson.

Another facial aspect which ordinarily tends to show that Congress intended to terminate a reservation is the provision for a sum certain payment to the Indians for their land. *DeCoteau v. District County Court*, 420 U.S. 425, 448, 95 S.Ct. 1082, 1094, 48 L.Ed.2d 300 (1975). A provision to pay all members of the tribe from the uncertain proceeds from future sales of parcels to settlers, however, has indicated that Congress did not intend to terminate a reservation. *Mattz, supra*, 412 U.S. at 504, 93 S.Ct. at 2257; *Seymour v. Superintendent*, 368 U.S. 351, 355-56, 82 S.Ct. 424, 427, 7 L.Ed.2d 346 (1962); *Ash Sheep Co. v. United States*, 252 U.S. 159, 164-66, 40 S.Ct. 241, 242, 64 L.Ed. 507 (1919).

The 1905 Act having to do with the Uintah Reservation provided for uncertain payment from sale proceeds rather than a sum certain payment. That is to be regarded as

a further indication on the face of the 1905 Act that Congress intended the Uintah Reservation to remain Indian country.

The majority consideration, at page 32, discussing the Gilsonite Strip withdrawal as being support for its conclusion that entry limitations are not inconsistent with termination, is plainly misplaced. The Gilsonite Strip Withdrawal Act expressly declares the withdrawn land to be restored to the public domain. Moreover, like the reservation termination in *Rosebud*, the Gilsonite Strip withdrawal followed the Indians' express cession of that small strip of land for asphalt mining because its barren nature made it useless to them. Act of May 24, 1888, 25 Stat. 157. The majority opinion does not mention this cession. Its references at pp. 23 and 25 to the applicable legislation are not correct. They are at odds with the condition. This was a special withdrawal that was agreed to by the Tribe; thus, there is no possibility of an implicit conclusion that there was a termination of tribal ownership of the remaining land. The trial court ably details the contrast between the tribes' complicity regarding the Gilsonite Strip withdrawal and their steadfast refusal to cede any more of their reservation. 521 F.Supp. at 1118. Without the Indians' cession agreement to provide a baseline purpose of disestablishment, the entry limitations insisted upon by the Senate in 1905 have undeniable significance.

In summary: there is nothing on the face of the 1905 Act which supports the conclusion that Congress intended to terminate the Uintah Reservation. In cases involving similarly limited reservation openings of lands that were not expressly ceded by the Indians, the Supreme Court and other circuit courts have held without exception that the opened areas remained Indian country.

Consideration of Legislative History

In *Mattz v. Arnett, supra*, the Supreme Court acknowledged that Congress has the power to terminate an Indian Reservation unilaterally. Termination, however, does not occur unless the act opening a reservation or that act's development shows the

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clear intent on the part of Congress to end entirely the land's reservation status. "A congressional determination to terminate must be express on the face of the Act or be clear from the surrounding circumstances and legislative history." 412 U.S. at 505, 93 S.Ct. at 2258. Subsequently, the Court has added that the required clarity of purpose can be disclosed if a tribe's agreement to cede its land is incorporated in a series of acts that show an "unmistakable baseline purpose of disestablishment." *Rosebud, supra*, 430 U.S. at 592, 97 S.Ct. at 1366.

In the present situation there once was an act that showed the intent of Congress to open the Uintah lands and to eliminate the tribe's and the United States's authority over the effected territory. That was the so-called 1902 Act which would have "restored [the Reservation] to the public domain." The catch was that it was subject to a majority of the adult male Uintah and White River Utes giving their consent. Act of May 27, 1902, Ch. 83, 32 Stat. 245, 263-64. This consent was never given. Clearly in 1902 some members of Congress may have considered termination of the Reservation, if the Indians agreed. As opposed to the Uncompahgre's uncertain claim to their lands, the Uintah and White River bands possessed title to the lands within their Reservation. Thus, their consent was seen as a necessary precondition to an opening of that land. See *Ute Indian Tribe v. State of Utah*, 521 F.Supp. 1072, 1111 (D.Utah 1981). *Rosebud* is not a parallel situation.

At no time did the Uintah and their companion Tribe, the White River Utes, consent to the opening of their Reservation. *Lone Wolf v. Hitchcock*, 187 U.S. 553, 23 S.Ct. 216, 47 L.Ed. 299 (1903), made Indian cession of reservation lands unnecessary. The Court there held that Congress could unilat-

erally open and allot reservation lands. Notwithstanding that, unlike the circumstances in *Rosebud, supra*, which the majority points to as its principal authority, the fact that the tribes here never ceded their lands directly or indirectly means that we cannot legitimately say that there was ever an "unmistakable baseline purpose" to terminate the Reservation.

To compare the situation here with that in the *Rosebud* case in which a majority of the effected tribe first agreed to the proposed diminishment of the reservation, then consistently ratified subsequent revision in the law intending to enact that agreement, is a contrast which argues in favor of the position of this Tribe.² For its part, the only changes Congress made in subsequent acts were to "the form of, and responsibility for, payment." 430 U.S. at 595, 97 S.Ct. at 1367. Despite these payment revisions, the original agreement's language which was precisely suited to disestablishment, remained intact in all of the cases that were considered. 430 U.S. at 597, 97 S.Ct. at 1368. The factual contrast between *Rosebud* and our case is, to say the least, great.

Similarly, in *DeCoteau v. District County Court, supra*, there was a consistent readiness to cede tribal lands which was a key factor. The *DeCoteau* opinion is relied upon by the majority opinion in *Rosebud* in support of its conclusion that the *Rosebud* Indian Reservation agreements showed an unmistakable baseline purpose of disestablishment. To be noted also is the fact that Congress' ratification of the *DeCoteau* cession agreement states that "All this land is opened by this bill to settlement as part of the public domain." 420 U.S. at 441, 95 S.Ct. at 1091. The finding of termination in *DeCoteau* was also supported by the fact

2. In Article I of the original act opening the *Rosebud* Reservation the tribe agreed to the following: "The said Indians belonging to the *Rosebud* Reservation, South Dakota, for the consideration hereinafter named, do hereby cede, surrender, grant, and convey to the United States all their claim, right, title, and interest in and to all that part of the *Rosebud* Indian Reservation now remaining unallotted." See *Rosebud Sioux Tribe v. Kneip*, 430 U.S.

584, 591 n. 8, 97 S.Ct. 1361, 1365 n. 8, 51 L.Ed.2d 660 (1976).

The majority opinion in *Rosebud* also notes that: "The written consent of a majority of the Tribe was obtained prior to the 1904 and 1907 Acts. . .; no written consent was obtained prior to the 1910 Act, but the 'practically unanimous' concurrence of the Indians was reported." 430 U.S. at 587 n. 2, 97 S.Ct. at 1363 n. 2 [citations omitted].

that there was no indication of a legislative retreat from earlier attempts to vacate a reservation, as in *Mattz*. And finally in *DeCoteau* the cession agreement provided for a sum certain payment. 420 U.S. at 448-49, 95 S.Ct. at 1094-95.

The trial court considered all of the legislative history in detail and was convinced that "[n]othing in the legislative history of the 1905 Act approaches a clear expression of congressional intent to disestablish the Uintah Reservation." 521 F.Supp. at 1132. That conclusion draws support from the Senate's express rejection of the 1905 House amendment to the 1902 Act which provided that surplus unallotted lands would be restored to the "public domain." As said by the trial court, Senators Smoot and Teller insisted that non-Indians be allowed to enter the Uintah Reservation only under the Homestead and Townsite laws.³

Congress made a "clear retreat" from its position as expressed in the 1902 Act. As was the case in *Seymour* and *Mattz*:

The Act did no more than open the way for non-Indian settlers to own land on the reservation in a manner which the Federal Government, acting as guardian and trustee for the Indians, regarded as beneficial to the development of its wards."

368 U.S. at 356, 82 S.Ct. at 427; 412 U.S. at 497, 93 S.Ct. at 2254.

In considering the circumstances surrounding the Uintah Reservation and the subsequent administrative treatment as discussed at quite some length in the trial court's opinion, there is no necessity for us to elaborate on it. We have accurately evaluated the governing authorities. Again, contrary to the conclusions expressed in the majority opinion, there emerges from this study the conclusion that the Indians, non-Indians, the state and federal governments have treated the land as a continuing reservation and not public land. Even if we were to agree with the majori-

3. Indian Appropriation Bill, 1906. Hearings on H.R. 17474 before the subcommittee on Indian Affairs, 56 Cong. 3d Sess. (1905). The bill as passed incorporated Senators Smoot and Teller's limited entry provision, not the full entry

ty's conclusion that there is "simply no consistent, clear and uniform identification of the reservation's status in the subsequent legislative record," there is ample evidence in the record of the surrounding circumstances in support of the conclusion that Congress never intended to terminate the Reservation or return its lands to the public domain. In any event it is for the cities and counties to prove that Congress had a dismantling intention.

The majority quotes the presidential proclamation of July 14, 1905 and states that this proclamation's "references and adoption of the terms of the 1902 Act" shows that the earlier act's termination language was incorporated in the 1905 Act. However, a reading of the 1905 Act fails to bring out this fact nor is there any public domain reference to the Uintah Reservation in that act.

Considered in its best light then the strongest part of the majority evidence supports the proposition that any time Congress expresses an intent to restore a reservation to the public domain there would thereupon be an underlying baseline purpose of disestablishment and that furthermore no alteration in congressional intent could come about. Under the majority's view, each change would merely adopt the earlier proposal. The Supreme Court has not accepted any such argument. Moreover property is not to be taken from its owners so easily. The Supreme Court has concluded that congressional intent can change and that we should look to the last expression of that intent to determine whether the Congress that actually opened a reservation meant to terminate it as well:

More significantly, throughout the period from 1871-1892 numerous bills were introduced which expressly provided for the termination of the reservation and did so in unequivocal terms. Congress was fully aware of the means by which termination could be effected. But clear termination

that the 1902 Act contemplated by seeking to restore the Reservation to the public domain. 34 Cong.Rec. 3522 (1905). see also Remarks of Cong. Howell, 39 Cong.Rec. 1181-82 (1905).

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language was not employed in the 1892 Act. This being so, we are not inclined to infer an intent to terminate the reservation.

Mattz, supra, 412 U.S. at 504, 93 S.Ct. at 2257 [footnote omitted].

A somewhat similar recent decision was decided by the Ninth Circuit. In the *Kootenai Tribes* case mentioned above, there was a congressional retreat from an opening act that would have terminated the Flathead Reservation. *Confederated Salish & Kootenai Tribes v. Namen*, 665 F.2d 951 (9th Cir.1982). But there was a failure in that case to obtain the tribe's consent to cession. Congress had enacted opening legislation which provided that after allotment to the Indians, the surplus lands "shall be disposed of under the general provision of the homestead, mineral, and townsite laws of the United States." 665 F.2d at 957. The obvious differences in Congress' approach in the subsequent act in *Rosebud*, which "explicitly incorporated, and purported to amend and ratify, a 1901 cession agreement," and in the act which allowed only limited non-Indian settlement on the Flathead Reservation caused the Ninth Circuit to conclude that "it is mere speculation to suppose that Congress in 1904 must have intended to effect a termination simply because it had sought to negotiate one several years earlier." 665 F.2d at 958 [footnote omitted].

In our case evidence of subsequent negotiations is not shown. As in *Kootenai Tribes*, it cannot be said that merely because Congress may have intended to effect a termination, because it had sought to negotiate one once, that it intended to effect a termination in the actual opening legislation. As Judge Pregerson, speaking for the Ninth Circuit, said in the opinion in the *Kootenai Tribes* case "it is mere speculation". Here also it is speculation at best to suppose that Congress must have intended to effect a termination growing out of the fact that first it sought to negotiate one.

CONCLUSION

From a consideration of the trial court's opinion, we are convinced that it is based on

a careful and painstaking review of the relevant legislation and history. The trial court applied principles of law to analysis of the facts in accordance with Supreme Court precedent. I join in the majority's affirmation of parts of the trial court's decision but dissent from all of the remainder of the majority opinion; that which reverses the trial court's judgment that the Uintah Reservation and the lands within it was not terminated by the 1905 Act or any other action. To hold otherwise would run counter to the detailed decision of the trial court and the precedents which favor the Indians. The majority's effort to piece expressions together in order to find congressional intent to terminate is not persuasive. To terminate the Uintah Reservation and return the lands to the public domain on the showing in this record would be an injustice of great magnitude. Actually the only parties who seek to bring about this termination of ownership are the two cities that are involved and no doubt they have motives of their own. It is possible that there are minerals to be mined in this area. However, this dissent grows out of a sincere belief that the Indian Tribes involved are threatened with a gross injustice.

Finally, we return to the fact that the United States has never undertaken a termination of this Reservation or Indian ownership of these lands. Throughout its history and at the present time the United States has recognized the continued existence of the tribe and the tribe's ownership of the lands. True, there have been limited modifications allowing entries, none of which have purported to bring about any substantial change. Indeed, even at the present time and in this case the United States has endorsed the Indian position.

The United States Government has on this appeal urged an affirmation of the judgment of the district court with the exception of the ruling with respect to the forest lands. This writer views the ruling on the ownership of the forest lands in the same way. It is a condition brought about by the Forest Service (Dept. of Agriculture)

undertaking the management of the forest. This has not changed the ownership of the lands or the timber. The important fact is that the United States is on the side of the tribes. This alone is opposed to the existence of any evidences of termination or any prior effort to void the Reservation or to return the land to public domain status.



Dorine HERNDON, Personal Representative of the Estate of Charles Herndon, Deceased, and Stellaretta O'Donnell, Personal Representative of the estate of Thomas O'Donnell, Deceased, Plaintiffs,

v.

SEVEN BAR FLYING SERVICE, INC.,
Plaintiff-in-Intervention-Appellee,

v.

PIPER AIRCRAFT CORPORATION,
Defendant-Appellant,

Mitchell Industries, Inc., Third
Party Defendant.

No. 81-1805.

United States Court of Appeals,
Tenth Circuit.

Sept. 2, 1983.

Rehearing Denied Nov. 10, 1983.

Action was brought in state court by widows of persons killed in airplane accident against airplane manufacturer, and airplane owner intervened, seeking recovery for loss of airplane and indemnification for its earlier settlement of wrongful death suit. The cause was removed to federal court by the manufacturer. The United States District Court for the District of New Mexico, Santiago E. Campos, J., entered judgment for widows and airplane owner, and manufacturer appealed. The Court of Appeals, William E. Doyle, Circuit Judge, held that: (1) service bulletin issued

by airplane manufacturer more than a year after the accident was admissible, and (2) since language of recent New Mexico cases indicated adherence to traditional indemnity principles following New Mexico's adoption of comparative fault, and since traditional indemnity principles did not bar manufacturer's indemnification of airplane owner, trial court did not err in awarding airplane owner indemnification.

Affirmed.

Seymour, Circuit Judge, filed a concurring opinion.

1. Courts ¶96(7)

Federal Civil Procedure ¶2011

Federal Courts ¶416

Trial court in exercising its discretion regarding admissibility of evidence must examine background of evidentiary rule together with rule itself and may look to reasoning employed by other circuit, district or state courts in reaching decision. Fed. Rules Evid. Rule 407, 28 U.S.C.A.

2. Federal Courts ¶754

In reviewing trial court's decision to admit or exclude evidence, Court of Appeals looks not only to propriety of trial court's legal reasoning but also considers trial court's evidentiary decision as a whole; that is, in context of entire trial record.

3. Federal Courts ¶754

If record indicates that trial court set forth inadequate reasons or no reasons for decision to admit or exclude evidence, Court of Appeals will examine record to determine whether facts support trial court's decision.

4. Federal Civil Procedure ¶2334

Error in admitting or excluding evidence does not justify setting aside of verdict or granting of new trial unless error affected substantial rights of the parties. Fed. Rules Civ. Proc. Rule 61, 28 U.S.C.A.

5. Products Liability ¶81

Even where feasibility of remedial measures by manufacturer is apparent,

APPENDIX C

HISTORIC INTERVIEWS

1. Roy H. Degler, Uintah and Ouray Administrative Forester (retired), 1962-1969. September 8, 1991.
2. Lawrence Schmidt, Marketing Specialist, Branch of Forestry, Phoenix Area Office, Phoenix, Arizona. September 9, 1991.
3. John Philbin, Phoenix Area Office Forester, Phoenix, Arizona. September 9, 1991.

ITEM C-1: INTERVIEW WITH ROY H. DEGLER

Rich Clow conducted this interview with retired Bureau of Indian Affairs Forester Roy H. Degler on September 8, 1991, at Mr. Degler's home in Phoenix, Arizona. Degler served as Uintah and Ouray Administrative Forester longer than any other individual. During his tenure, 1962-1969, Degler supervised the most extensive contract cutting on the reservation and initiated several development projects.

RC: The first question I'd like to ask you is a question about yourself--your background and how you became interested in forestry.

RD: I'm a 1933 graduate of Purdue University. I started work in what was a CZ program in North Carolina. After about ten months, I transferred up to northern Wisconsin with a position of junior forester under Civil Service. I stayed up there in Wisconsin about 10 years. Went back down to . . . in the eastern part of Missouri, which incidentally is 30 miles from where I was born, in Poplar Bluff. Worked there as fire control and . . . management officer for a year or so.

I quit the government and went into a private enterprise up in northern Wisconsin which folded after about a year, and I went back and was offered a job as forest ranger down at Donovan. Took that job for about 10 months and I lost my seniority. I was given a chance to work for the Department of Conservation in Missouri and started working there in 1942 or '43 as, what they call them now, Service Forester, I think. I worked at that job for 4-4 1/2 years and I was transferred to the area office in Jefferson City as Forest Cropland Manager. A program to manage forest cropland.

A valuation thing. I worked for the Department of Conservation 17 years and I pretty well came to the end of that job, developed it to the point where it wasn't interesting anymore, and I put my name on the Civil Service Register and was offered a job as forester with Uintah-Ouray Indian Reservation in Utah. My wife, my young son, Roger, and I headed west in 1962. Took about 10 or 15 days to get there. My wife had a heart condition and we had to get out of the Missouri country. Started working about the 13th of August, I think, 1962. Started working as the forest manager for the Uintah-Ouray Indian Reservation. I've done quite a little writing, romantic novels and things like this. That's about the end of the personal stuff.

RC: What was your first impression of the Uintah-Ouray Reservation and what was your first impression of the forest that you were now going to begin to plan for the management of?

RD: My first impression was, "Where in hell are the trees?" The Pots and I was very impressed with the quality and the size of the trees. . . . When I landed at U & O I thought I was a coordinate, or a subordinate, to . . . I thought the range management man was my superior, but it turned out I was on staff and I gradually developed a forestry program. It took time to get acquainted.

I know Clark Patry [sic] was the area forester then and I asked him--I had taken a \$2,500 cut in salary when I took the job in Missouri--and I asked Clark [sic] how I could get a higher salary and he said, "Get a timber sale going," so I started working on that. And Charlie Whiston came in as area forester and he was extremely helpful in

getting things started and encouraging me to make a timber sale. I think I made about 5 timber sales.

RC: When you arrived at the Uintah-Ouray Reservation, what were your impressions of the tribe's view towards forestry?

RD: I don't think they had any particular interest. In fact, the first sale I made . . . timber permit sale. . . with a bunch of bug-killed timber along the tribal roads, and I worked up a resolution to present to the tribe and Nat Hanson, the range manager who had been a forester, created it for me, I couldn't be there that day he and the tribe met, . . . I'd suggested \$10 a thousand for the timber value and . . . they thought that was enough. . . . He talked about veneer pine. Of course there was no veneer stuff at all, just bug-kill. I don't think they had any particular thoughts about forestry. After we got going and got acquainted with the people there, they accepted whatever I decided to do.

RC: What about the timber sales? One of the first jobs that you took on at Uintah-Ouray were these contract timber sales and would you want to discuss those sales and how you felt they went?

RD: Well, the first sale, as I said, was the Twin Pot sale and it was a learning process. It wasn't marking timber to be cut. Actually working up the sale, marking timber to be cut, supervising the sale, seeing the men are paid what was due. I went back, about 5 years later . . . and I was very impressed--I saw one or two bug-killed trees--but for the most part we'd eliminated all that. It looked good. I don't recall the other sales too much. There was Lower Bear Wallow, Upper Bear Wallow, . . . , Yellowstone, which I think was about the last sale made--no, it wasn't the last sale. Walt Sixkiller worked with me on the Twin Pot sale. He went to Viet Nam. . . .

RC: The next question I'd like to ask you pertains to the local timber market. The tribe made contact sales under your supervision, they made large sales. Would you like to comment on the local timber market? Who were the purchasers and what was the strength of the local market in the Uintah basin for local lumber? In other words, what kind of products were you able to make from the trees that were being sold?

RD: They started off to be mine timbers. Sold some cottonwoods on a series of permits--no contracts, just a series of permits, for mine timbers. Pine was pretty much the same way, into the mines. Coal mining over at Price. Very little local timber. . . . one of the buyers, I've forgotten his name. . . . There were two mills up at Mountain Home. . . . to a couple of brothers, I can't recall their name. . . . an area of big spruce--McAfee Basin. A hidden valley. You can't get there from here.

RC: When you arrived at the reservation, and you had the northern conifer forests to begin to make permit sales; that was in the northern part of the reservation, did you have any interest or did you have any inclination or were you supposed to deal with any of the pinion juniper that was on so much of the reservation? Did you do any work with that in terms of firewood or grazing?

RD: Firewood and Christmas trees. Christmas trees in Hill Creek. Blue spruce occasionally. Some rock hill pine in the tribal members to do the Christmas tree cutting. We cut them on an order basis and part of the proceeds went to the Indians who did the cutting, part went to the tribe.

RC: What species were you cutting for Christmas trees?

RD: Pinyon mostly.

RC: And where was the market for the pinion Christmas trees?

RD: Salt Lake City, Ogden, on the west slope.

RC: In the forests that you were administering and making plans for, what did . . . were there any provisions that you and the tribe were . . . you and just the tribe wanted to make for animal habitat?

RD: No, I don't believe that entered into the sales at all. I don't recall any mention. I got criticized by the tribal narrow leaf cottonwood and they turned out to be bad and they just left them.

RC: What campground was that?

RD: An unused one. Actually the table was falling apart, no restrooms. It hadn't been used for years.

RC: You also had to implement and make plans for conservation programs in the forests, forest improvement. How were you able to do that or was that something that was hard to do because of a small forestry staff? Did you have funding problems? Did you think you should have had higher funding to do conservation work?

RD: I don't think we did any conservation work, as such. No timber stand improvement work. Beetle control eradication. Porcupine control. That was about the size of it.

RC: When you were the administrative forester, you got some funds from the Accelerated Public Works program. Would you like to comment on that program?

RD: I don't remember getting anything like that.

RC: Okay, it was a 1963 program.

RD: I know the tribe sent us \$20,000 to put some Indians to work. I hired two crews. One went out on Hill Creek, one went to Clark Canyon and did trail construction. The one on Hill Creek cut fence posts and corral posts on a piece basis. R.A. McCook was the man in charge of the post and pole cutting, I think. Robert and Stanley Hinks were two of the members of the Clark Canyon trail crew.

RC: Would you want to evaluate the success of that program, that Accelerated Public Works program? Did you think that was a good program? Did it benefit forests at Uintah-Ouray?

RD: No. . . . The tribe benefited from some of the posts and poles. I don't see any great benefit.

RC: One thing that a forester always has to be concerned with is fire. What did you think of the firefighting organization when you arrived at the reservation? How extensive was it?

RD: Two Indian men. One was Walt Sixgunner, the other was Ambrose Walsh, a full-blood Ute. Walt Sixgunner was part Ute, part Cherokee and part white. We did organize the Ute firefighting crew to a 25-man unit. They went on fires out of the state. As far as . . . two men and later on I hired Marshall Cardo. And by the way, if you get up to the Indian Reservation, you should look up Marshall Cardo and Ambrose Walsh and apologize to them for my not looking them up when I was there 3 or 4 years ago. They're good men. . .

RC: What about the Ute firefighters? That was a group or an organization that you were responsible for. Would you like to comment on that group as a firefighting unit?

RD: Well, they were picked up by the Forest Service . . . The tribe gave me money to buy uniforms for them . . . I think they did a credible job.

RC: Was there an organization of firefighters on the reservation before you got there?

RD: No.

RC: This was a new organization that you started?

RD: I don't know how it got started. I think talking to one of the Forest Service men I used to help fight fires. . . . and they gave me money to buy uniforms-- belts, trousers and shirts, and Russell Cuts designed the patch. (Discussion about three sizes of Utes.) It was a good job.

RC: One other thing that you were instrumental in doing was preparing a forest plan. Would you like to talk about the forest plan that you had to develop?

RD: Well, that was at the end of my stay at Uintah-Ouray. I took the aerial photo maps . . . from the aerial photos and I built up on that.

RC: Would you like to discuss the aerial photographs that . . . Where did you obtain those and is that the basis of the report that you began to prepare?

RD: It was based on it completely. The aerial photos were in the office. I didn't use the aerial photos, I used a composite somebody had drawn showing the acres and types and built it up from that.

RC: When you began this report, was this something you took on yourself or was this something that had been assigned to you?

RD: It was something that Charlie . . . , the area forester, wanted. I pretty well worked myself out of the forestry job there and ended up being the reservation program officer. I followed Bud Henry. I met Bud a year ago in Hawaii.

RC: How did you work yourself out of a job preparing this forestry report?

RD: No timber sales to be made, I had all the timber sold that was salable or should be sold. And somehow Sandy Lyman (?) thought I'd make a good reservation program officer and he worked me into that job.

RC: What were your findings in your forestry report when you started to take the aerial photos and other data that you had and began to compile the timber resources on the reservation after the contract cuts had been made, what did you find?

RD: I worked on an annual gross basis and . . . it was a process of adding the acres and increasing the volume by percentages. Seemed to be acceptable. I don't think it was statistically very sound, but . . .

RC: Why wasn't it very sound statistically, in your opinion?

RD: Well, I based the information on lines given it on the maps. I wasn't sure that those lines were anywhere right. I didn't see any written field work on that, it was all office work. San Carlos . . . I did a little more on a sound basis there. But I laid no plats out on the Uintah-Ouray Indian reservation. We were buying from the aerial survey acres and volumes.

RC: Do you have any other comments you'd like to make about your 1970 report that you prepared?

RD: No, I don't remember too much about it.

RC: After you completed your 1970 report and then you moved to San Carlos, what were your duties at San Carlos?

RD: I was sent there primarily to work up a management plan. The whole subject was to get rid of a forester named Jim Steiner. I was actually detailed to Fort Apache and I couldn't be able to work under another GS-11.

RC: When you were at Uintah-Ouray and you'd just completed your forest report and you knew you were going to leave, was there anything that you felt like you hadn't accomplished that you wanted to accomplish?

RD: No, everything was settled. I think I did a good job of marking timber, supervising sales. About 20 1/2 million board feet. That didn't hurt any areas any. In fact, the Yellowstone . . . on the planning program and the timber sale about 3 or 4 years later it was carpet thick reproduction. Good.

RC: When you were back at Uintah-Ouray several years ago, did you have an opportunity to go back into those areas that you had marked for sale?

RD: No. After I was in San Carlos for a few weeks, a few months, I went back up on official inspection . . . six of us in all, I don't believe we went out in the sales area. I don't recall now.

RC: Do you have any comments you'd like to make concerning your tenure at Uintah-Ouray in general? What were your feelings? What did you feel about the reservation when you were getting ready to leave, or in hindsight--was it a good experience for you?

RD: Most excellent experience. It was the highlight of my professional career. I had a chance to go my own hiring, firing, work on a budget, spend money that should be spent, come out ahead with money saved or left over. As I said, it really was the best job I ever had, both in personal satisfaction and for a job well done. I appreciated a chance to work with the Ute Indians. They're wonderful people. Francis Wyasket was the tribal chairman for part of my tenure there. He had worked for me as a foreman on a Christmas tree plantation we started across the river there, I don't remember the name of the river, but that . . . (Discussion about the difficulty in securing a 5-hp. tractor under Swartz. He was a tough man.)

RC: Would you have any comments you'd like to make on Bureau of Indian Affairs forestry operations in general? Now that you have been on several reservations working in forestry, do you have any impressions of the forestry program?

RD: By far, the foresters working for the BIA are a bunch of dedicated chaps. I know Bud Mast over at Fort Apache was a brilliant man. . . . The Ute Indians were nice people to work for. I enjoyed the work tremendously. Francis Wyasket called me several times and wanted me to work for him. He never did say in what capacity. He'd come down to my office and sit and I'd start tossing information at him and when I'd hit the right button, he'd respond.

RC: Do you think after you left Uintah-Ouray the tribe was more receptive and interested in forestry issues?

RD: I wouldn't have the slightest idea. I left Walt Sixkiller in charge. He worked under . . .

RC: Do you have any final comments you'd like to address in terms of your stay at the Uintah-Ouray as a forester for a decade?

RD: As I said before, it's the best job I ever had. Most satisfying. I put in many long days--12, 14, 16 hours. Not because I had to, because I needed to get the job done.

The man I had working for me never complained about my rash of overtime. We had a job to do and we did it. It was a great job.

ITEM C-2: INTERVIEW WITH LAWRENCE SCHMIDT

Rich Clow conducted this interview on September 9, 1991, with Lawrence Schmidt, Marketing Specialist, Branch of Forestry, Phoenix Area Office, in Phoenix, Arizona. Schmidt's specialty is developing greater tribal use of reservation woodlands. Though Schmidt has worked on a limited basis with the Uintah and Ouray tribal leaders and residents on their timber, the reservation's extensive commercial woodlands provide the potential for greater development of tribal timber business ventures. This interview is included because of the growing importance of the Uintah and Ouray woodlands.

RC: Because woodlands are so important to the reservation today, being used by tribal members for domestic as well as commercial purposes, would you explain the current status of reservation woodlands programs?

LS: . . . provisions in CFR 25, where tribes would typically have, what's called a Wood Permit Policy, and for the most part a wood-cutting permit policy would identify these woodland products that would not be handled through a formal contract. In other words, through the permit system you could take a small parcel and by doing that you're not alleviating all of the constraints with regard to the historical preservation of any environmental concerns that would be on a small permit.

By all means you consider those concerns and complications or issues that had to be mitigated, that would be a permit area that you wouldn't spend a lot of time on because of the fact that as a rule the permit was issued to a tribal member and in a few cases non-members, to remove firewood. Sometimes you would also use a permit for removing insect damaged trees or fire damaged trees like that, particularly where it was a small quantity.

Within the Bureau roughly 10 years ago there were monetary amounts established with the different areas that said as long as the permit does not exceed, in the case of the Phoenix area \$10,000, it's permissible to prepare one permit to one or more individuals. Basically it's a legal document and it would quite often through the permit policy itself, the tribe had already given approval for the program so you would not normally have to go back to get another tribal resolution or each timber sale contract. Of course each one requires a tribal resolution for its approval, so if the woodland . . . the foresters had quite a bit of flexibility and, as I say, for the most part it was set up for firewood cutting and tribal members would cut firewood and go off the reservation to sell it.

As much as anything else, quantities of wood that were received under a given permit may only be for as much as one cord. That small of a quantity, the tribe had a \$5 a cord price, or \$20, or whatever it happened to be, that authority was there. Each tribe looks at accountability a little differently, so some in forestry had someone out there every second that the woodcutter is harvesting, other tribes just want a volume determination that's current. For this reason you would quite often have a permit that

would only be valid for one given day. So that would mean the guy would come in the previous day, make his purchase, and then when he left the reservation he'd have to get the wood scaled so there was a track of accountability there not only to collect the money in advance but also assure that the cutter only took out one cord of wood.

Most of the tribes that I'm aware of in the Phoenix or Albuquerque area for the most part, recognizing the fact that as a tribal member they have to go further to get the wood, consequently they often feel that the resource is not nearly as extensive as what it actually is, because their idea of available resource is to be able to access it from the same way that perhaps they started going down 20 years earlier. Maybe the first time they'd ever gone off to cut wood, they went on this road and it was readily available and they probably didn't have to pull off the main road more than a few feet and they could cut the tree, load their pickup, and take off. Over the years, they've had to go back a little farther and sometimes they have the opinion that the resource isn't there when in fact it is.

Anyway, the Bureau for the most part has always emphasized their commercial timber sale program to a point that woodland is nothing but permits and while some reservations would issue hundreds of permits for firewood removal, it was still a small value item of concern in management. It was only until about '85 more people became interested in woodland resources and in particular the reservations that had a vast resource, like Walapai or Uintah-Ouray, or over in New Mexico I'd say the Zuni reservation; in Colorado the Ute Mountain they have large areas of woodland resources. ITC [Intertribal Timber Council] got involved when they decided to lay down basically a marketing program. They had marketing foresters in different regions of the Bureau and they also identified I believe it was half a million dollars for woodland projects. If these woodland projects . . . each tribe that was interested was requested to submit applications on a particular woodland involvement and they would establish areas that would be harvested and the funds and their availability were helpful because prior to the ITC's involvement there were no dollars set up where a tribal member could come in in the summertime, for example, and have a wood yard where he could receive immediate payment for his firewood. Prior to that he had to wait for the firewood season and then he would make his contacts with his buyers to purchase his firewood.

So when we went with the establishment of the wood program several tribes hired woodland foresters. The Albuquerque area hired one, San Carlos agency here in the Phoenix area has hired a woodland forester, and the emphasis is more into working closer with the tribes.

At Uintah-Ouray they are definitely interested in developing a program and Dan Pederly, the woodland forester at San Carlos now . . . we went there the week of the 19th of August [1991] and one of the purposes of that trip was to lay out some plats that they could use for demonstration and study areas where their tribal council would be able to go in there and look at treatments that could be made. For example, we set up one area where we had just basically a selection harvest and in that harvest we measured every five fifth-acre plots to give us a 20% of the five acres that was set up in the study and with that we know what the total volume is, what was left for future harvest, what was marked to be removed for firewood, and had other areas set up that represented group

selections. We had wildlife plats where it would enhance the wildlife benefits. Not so much benefits, but it would have enhanced the wildlife habitat. With the four demonstration areas, that would at least give the tribe an idea of knowing what is this going to look like after we go in and remove the wood. The other thing it would do is give their staff an idea as to know how to go about marking out this type of a cut.

So the woodland . . . the first thing you have to remember is that with the funds you've got a means to apply for specific projects that are going to be beneficial with the overall resource. You normally have in the case of all these reservations, in the Southwest, . . . Forest Service us a pretty good idea as to the total acres or the total volume. Of course in that what you have to do is go back and re-file it to find out of that grand total what's actually feasible or operable to consider for your overall woodland operable acres of a sale from a commercial standpoint.

And in the case of all these agencies in the Southwest, they're trying to get into the specific numbers right now but I guess in a nutshell we have a tremendous resource, there are demands for the firewood that one thing I've found in my studies is that the demand for the firewood is definitely there but there are so many producers that the price per cord has for the most part in the last two or three years been dropping rather than increasing. It's really putting a burden on the ability of, say, a tribal member to go out there and get into the business and be competitive with some of these large firewood cutting operations that will harvest thousands of cords a year. They're using for the most part green cards to do the work. What they'll do, they'll find a dozen fellas and they'll put them out on the job and they'll find the ones that can cut the most wood, maybe half of them are high producers, and they'll keep those five or whatever the number may be, and that's their crew and the other guys, well they're out of work.

Well, on the reservation, for the most part they start with five or six or how ever many it may be, they don't weed them out the way the competitors do, consequently it's pretty tough for them to be competitive, so what we're looking at is trying to find value added ways to take that firewood and use part of it for firewood, there's some larger components that could be converted into some other material, like cedar chests, lumber, say you could get a little miser mill or some other type of manufacturing process in there to diversify your product to give it an opportunity of realizing more total cash flow, well you know we're going to do that. At this time we're basically finding out that the competition is so intense that quite often our local cutters will go out, cut a week or two, and they say, "Hey, that's it. I'm not making any money at this. I can do something else." So what I'm doing at this time is responding to requests from specific tribes throughout the Southwest where we try to share information that's beneficial one with the other and we're also looking at trying to get into some cooperation between the tribes so that let's say we were able to find a very large contractor that wanted thousands of cords, that we'd be able to combine two or three cords in order to fulfill those orders. Just a constant involvement. And we're also working with the . . . and different trucking companies to try and determine the most favorable means of transporting the product from the reservation to the eventual selling point.

For the most part we're doing any and everything we can to see that the tribe can receive a maximum amount of money for that resource and put them in the know with

who's doing what so that they are aware of what the competition is and, as I say, if there are value added products out there, we'll identify those. And if they have that information . . .

My involvement on the U & O as far as tribal members, there's a fellow by the name of Marshall Culenrow, he's a tribal forestry technician, and he was my main contact the week of the 19th of August and he went with me when we contacted different buyers in that area and he was also telling me that one of the individuals with tribal economic development was trying to initiate a program and we were advising the forester at U & O that it's great to get the program going but if they want a large contract area there are certain requirements in EPA and one thing and another that they have to comply with even though it is a permit because it was a large one, and even if it was a small one they still need a method of being able to track the resource so that everything's accountable.

That's not to discourage anyone, it's just simply to be able to recognize where the resources are and be accountable for its movement from one place to the next and in the case of U & O I guess they had an order to shortcut their own policy so to speak, and chances are you cash the policy in and they haven't used it that often but there are times that a tribe will want to expedite a particular measure and make things happen right away, they look at delays as something that the Bureau requires, and you know we all require this but sometimes it's the law of the land or for that matter it's their own law, and resolutions that they pass have to be complied with the same as the CFR 25 and so you will still help them with things they can do to go ahead and expedite the process, but at the same time there does have to be a process, there has to be a paper track on every transaction that's made, there has to be accountability on it, and sometimes these things are not nearly as fast as some tribal members would want but nevertheless we work with them as fast as possible.

In some instances it doesn't take that long, a week or so at the most. On some small permits they can get things started and get into larger contracts later on. Of course a contract's going to take several months to have that prepared. One of the beauty parts of the permit system it has a lot more flexibility. Still not to say that you're not using your accountability but everything's up and up and you are able to respond to that individual need a little faster than you would if it was under a formal contract.

Did I answer any of your questions?

RC: Yes, I have a couple. In the past decades ago, post World War II, they used to chain juniper pinion. Would you want to comment on chaining?

LS: Well, I think for the most part it was . . . what we were looking at back in those days was to make a vegetative conversion and this is really no longer an acceptable practice. The reason for it is pretty obvious. You take a large tract of land and say, "Well, I can cable all of this and it's going to be beneficial to all of my resource uses" that's not humanly possible. You have to look more specifically to stand types and individual groups of trees and they have to be managed in an individual group manner rather than an overview of several thousand acres.

That's why even with the woodland area you would have stand prescriptions to make and you really spend about as much time on the silviculture and the management

of the stand of pinion juniper as you did with a commercial pine or a commercial mixed conifer stand. That was the one of the reasons we put these demonstration plats in. Those plats have silviculture in them from the fact that we made a cruise and sampled these areas and once you look at an area the only way you can get a good handle on how to manage it is to number one, find out what's out there, and when you're measuring the trees you're also observant about any erosion problems that you may have, any watershed problems or concerns, same thing with all the other natural resources that exist. And when you put your package together you'll have an I.D. team that would sit down and review it and each one of the disciplines that are identified within your prescription or your plan would have to have specialists that could make observations and comments, go out and look at the area and either agree or disagree, and in the net process we'd have a few tradeoffs where maybe this isn't to be harvested but this harvest would be beneficial to everyone concerned, and it's just a much better way of managing.

And by contrast in the old days when they would go out there and make massive cablings of areas to convert the vegetative type to say a grassland, but for the most part it didn't work because there are some species of juniper like the alligator juniper that will sprout some damaged stumps and by and large all you wind up with is many more small junipers than you had to begin with and it can be a bigger problem than what you had to start, so back in those days they weren't aware of that and now you do know it and you can prevent that from happening again. But site conversion by cable is just really not an acceptable practice. A few private ranchers may still exercise that method of management but I don't think it's been accepted on any of the federal lands for 10-20 years now.

RC: At U & O they did a lot of grazing. What about grazing and continuing a grazing operation in light of using the juniper pinion.

LS: Here again you can build a prescription that will take the beneficial aspects of improving let's say livestock forage production, for example, there's cutting techniques that can be used that will improve the amount of native vegetation that's already there, or you can take it a step further and actually come in and plant favorable grasses that are good forage for the livestock. You manage and manipulate the density of the trees in order to encourage the development of more grasses or forbs that are good vegetation for the livestock or wildlife.

RC: At Uintah-Ouray, in photos I've seen and descriptions from the late 19th century describe it as a grassland. And then the overgrazing took place and apparently took place quite quickly. What effect did that overgrazing have on the juniper pinion?

LS: I'll tell you, there's some cases I'm sure if it was overgrazed to begin with, if you had an established stand of pinion juniper in there obviously the grazing isn't going to do anything to your pj overstory, but it will have an impact on the younger trees coming up. But I would think from an historical standpoint that the pinion juniper has a great longevity. We were estimating at U & O that a lot of the trees we saw that were decayed in 16 and 20 inch trees were at least 300 years old, my guess is they're going to live another three hundred years. I really don't think that grazing has as much of an impact on the pinion juniper woodland per se, and one thing that I do notice is there's probably as much encroachment of the pinion juniper vegetative type into the rangeland

as there is the other way around. As a matter of fact, it's basically all infringement of pj into desirable rangeland and I think there we saw a fire that was on the Whitelock area last year and that fire was nothing but a tremendous benefit to the range program.

As I was talking to Gary Orr, their forest manager, I said, "You really need to work on the beneficial aspects of that fire so that you can take your council out there to make them see what has occurred." Anyone that would look at it could see that the trees that existed at the time of the fire were quite short and had very little diameter growth, was fairly small, and I'm sure that those were all trees that invaded into the area, but it was a case that the fire helped the range program tremendously and from what I understand the tribe was really upset over the fact that the Bureau allowed the fire to burn the pinion juniper.

They were basically in my opinion trying to manage a grassland cover type and substitute pinion juniper into that grassland. That was a mistake. And it's things like that the agency range and forestry staff needs to spend some time with the council in order that they can become more familiar with some of the aspects of good management. Because you have an area out there that doesn't have a tree on it doesn't mean that you're mismanaging it. If it's best suited for grass production that's where you should be putting your management emphasis on.

RC: What are your comments on U & O's woodlands project right now? Any conclusions?

LS: At this time I'm not really convinced that the agency or the tribe either one is really using all of the information that's been gathered. My thoughts on it are this completely, that we need to get some folks informed, give them some basic information, take these inventories that have been run and get our agency staff and our tribe to understand the benefit of that information and to realize what directions they have they can take, and then from that you can begin a management process, but the first part of it as I see it is, it's an education process and again to both the agency as well as the tribe.

RC: You see the tribe as they set a policy and then not being quite fully informed of the woodlands and the way the woodlands interact with other landscape, other vegetations on the reservation, they're going ahead not fully informed then?

LS: Well, I think you have some interest there in the economic development. They're looking at a specific project and want to do it yesterday, it's that type of a thing.

RC: What's the project they're looking at doing?

LS: From what I understand, they want to develop a woodland yard where the tribe would pay tribal members so many dollars per cord for every cord that was delivered to that yard. And then in turn the yard would . . . part of the wood I imagine would be distributed to the handicapped and disadvantaged individuals that needed wood for their heating, and I understand the state of Utah has a program that helps that class of individual and they're looking at that. I'm sure they're also looking at selling a portion of it on a commercial market, perhaps in the Salt Lake area or wherever else they could sell it.

RC: Do you have any final comments you'd like to make about the Uintah-Ouray woodlands program?

LS: I think the thing to do is look at the positive about it, it's a tremendous asset . . .

ITEM C-3: INTERVIEW WITH JOHN PHILBIN

Rich Clow conducted this interview with Phoenix Area Office Forester John Philbin on September 9, 1991, at the Branch of Forestry, Phoenix Area Office. Since 1970, when Roy H. Degler left the Uintah and Ouray Reservation, no professional forester was assigned to the reservation except for the brief time when Robert Bizal held the position. A result of this historic long-term absence of a professional forester is that the reservation personnel often rely on the Branch of Forestry, Phoenix Area Office, for technical assistance, making the Phoenix Area Office an important link to the reservation forestry operation.

RC: Mr. Philbin, would you provide background information on your previous forestry experiences, where did you attend college, when did you join the Bureau of Indian Affairs?

JP: A little background on where I came from, and how I got to be here--I went to school at Syracuse University, actually the College of Environmental Science & Forestry at Syracuse. I obtained my B.S. degree in 1974. Shortly after that, my first job offer as a professional was to work for the Bureau of Indian Affairs, Fort Apache Agency, in White Mountains, so we packed up the family and headed west from New York State to Arizona.

I worked here for nine years at Fort Apache. Almost five years I worked in timber sales, different sales--large sales, working in the high country, porcupine, mixed /500 conifers, group selects, doing prescribed burning--all the different projects that needed to be done. Reconstruction during the winter here and there; helped extend the runway 1300 feet one winter; surveyed that. Scrubbed a few warehouses. We did anything that needed to be done back then, and I think our guys still do that out there, at least I hope they do whenever a project comes up.

Then I worked as the Forestry Training Officer so I dealt with all aspects of forestry training, particularly fire management, and also did normal five-year plans and budgeting for that large agency there. That was my main area of concern in the second job I held there. We did all the employee development needs, obtaining somehow all the training courses needed to meet those different needs. So I worked with a lot of different folks in a lot of different areas of expertise. I was working with the folks up in Utah, it turned out, Forest Service Region IV. They have a program for silviculturists, a tri-regional education in ecology and silviculture. It's called the Trees Program.

The Forest Service was the only one in the program at the time with three different universities. So we wanted to get somebody in there. Dennis Dupuis was the first Bureau employee to go to that. Since then we not only have Bureau employees going, we have tribal forestry employees, and we participate on the tri-regional board--we do those kinds of things now. So it's been really successful and we have /500 several people go every year for their certification. We participate on an inter-agency basis on the certification board for silvicultural. So that's the kinds of things I did at Fort Apache.

Then I came to Phoenix in 1983 in the Fire & Timber job, timber sales. That was just one position. There were only 3 positions here at the time. There was the area

forester, there was one position for timber and fire, and there was one for forest development, which was add-on money for forest development; that's the only reason we had that third job added. Within about three years, I moved on up to the Area Forester and we split out a couple of jobs and the area got a little bit bigger. We have a fire individual, one for timber sales, one for forest development, a marketing specialist that just came on a little over a year ago.

You're asking about U & O experiences there. My first trip to U & O was about 1978, on a fire, the Chandler Canyon Fire down on the Hill Creek Extension. The following year was the Bear Wallow Fire and I got to go up from Fort Apache up to U & O. It turned out any time there was a very large fire, a large incident that went beyond the capabilities of the local people, Fort Apache would be called by the Area. They would call and say, "Would you give us a team? Would you get a fire management team in to take over the fire up there." That's pretty much the way things were done then. It wasn't so much interagency as far as management things /500 were concerned. The Forest Service had their teams, the Interior had their teams, and the BIA had theirs. When we ordered out resources for those incidents, we got them from wherever. And when we were done we definitely had an interagency incident. But to start with that was the way that would be done. I think Larry Laird was the incident commander for both those large fires.

RC: Would you like to talk about those two fires, the Chandler Fire and the Bear Wallow fire? What was your role in both of them and what kind of firefighting organization did you find on the Uintah-Ouray reservation?

JP: As far as the organization that was there in place, it was a very small initial attack organization. So it was very easy for them to be overrun by a larger incident. There were just no resources there to be handling any kind of extended attack. That's the case in most places. So sometimes they would get in over their head before they realized it. Then they'd call for help. I went to the Chandler Canyon fire as a sector boss under the old large fire system.

In fact, it was kind of an interesting flight up there. We flew up from White River, Arizona; there were about six of us. And the little plane to take us on out to the fire was a little Cessna 206 and wasn't big enough to carry all of us and our gear, so four or five guys went on the first flight and Dave Moron and myself stayed behind and it was going to be at least two hours, so we got a ride into town, /500 probably with the realty officer, whoever had been assigned, I remember he came out in his slippers in the morning and picked us up. He was told to transport these guys around and give us a little information. So we went and had breakfast and came back out and got in the plane and the pilot was taking us out--I was sitting in the right-front seat and he started talking about "I'm not sure I left those guys in the right place." So we flew over where they were and there were just two little strips cut through the sagebrush that had been overgrown back by the sage, probably been four or five years since the grader had been down it, overlooking the Green River.

And there these five guys sat with their gear out absolutely in the middle of nowhere, a couple of miles from the fire. And the pilot said, "Well, I saw some trucks back over at the intersection here." And he circled back around --probably five miles

from where these guys were parked--and he did a loop around. I thought he was just looking, and he slipped the flaps. I thought, "Oh no, he's going to land." And he landed down this little swale on the road and we popped up over the top and we were probably 100 feet from the camp and the pickup trucks, a helicopter port there. So we got out and he discussed where he was and found out he was supposed to be using a different runway, which was really a pretty nice runway a couple miles away. So he said, "Well, I'll fly you over there." And I said, "No, they've got breakfast going and coffee --I'll stay right /500 here." So we helped him turn his plane around and he took off downhill and then uphill on the other side with about a 20-knot tail wind.

I said, "Well, I don't think I'll get back in that plane." He went down and loaded those guys up and tried one time to take off and couldn't make it, so he tried the other runway, the other strip, and busted down through the sagebrush and he just pulled her up and just cleared the juniper. Fortunately the hill just kept falling away to the Green River and he just followed the treetops with the stall warning going about 30 seconds until the cliffs and came and he had enough air to get his airspeed up. Off he went and he took those guys up to the other place.

That was quite an interesting experience out there. That was some of the first experiences I've had with sage fires. It was real quiet in the morning and ran like hell in the evening. It took us a couple days to get that thing corralled. Where it got real steep was where people had to give one hand for themselves to hold on and one for the fire to build line, to get down underneath. And if you didn't do that the fire would just keep dropping off the hill and making runs back up at you where you were unprotected. So it was some difficult work that was done there by the folks and they finally got her corralled in there. same kind of situation. I worked in camp--I was running the camp then. By that time I was doing logistics kind of work too, and again I remember a large number of different agencies--county agencies, tribal branches of government, using game and fish people from the tribe for security. We had a county road problem, an irrigation ditch. The county didn't have the bridge on it and we got some extra work done with them and they came in and got the bridge and cut off several miles of extra transportation. People really pulling together.

In fact, I remember the close-out on that. The Forest Service came down to close out--the forest supervisor--and he had a lot of his staff and a lot of the people that had been on the fire, and he talked about putting together a joint timber sale because it had burned on the national forest also. And it just never came about and I don't know--as I say, that was probably '79 or so, several years before I came to the area, so I don't have all the specifics on why that fell through, but it seemed like it should have been and could have been a single timber sale with all those folks--approved by the timber council, approved by the Forest Service--and that would have been ideal for reducing logging costs and proving the value to the forests, local governments, and definitely the tribe. Because it would have been cheaper to get it done.

RC: What did you think of the cooperative firefighting work up there? Did you think it was a good cooperative effort when you were on the Bear Wallow fire?

JP: That was just generally the trend that was going on with all the fires there, all the interagency fires. That was happening before ICS and NIMS (National Emergency

Incident Management System) in the early '80s. I think the fire community, because of the way dispatching was run, was already causing that to be the case.

If your fire orders went back to Boise Interagency Fire Center, then you were going to get interagency resources on the fire, regardless of where they came from. So that was already happening. One of the things as far as the agency goes, I remember always being a problem with communications. We had the low-band radios, and everybody on the agency was on the low band, the same frequency, so you were trying to run this large emergency with 500 or 600 people working out there and trying to get the logistics for it, and then they were trying to run the jail, or trying to do irrigation work, and trying to do all sorts of things. The police were on the band just doing their daily work, and so that's what we felt was really a need, communications.

RC: Has that been changed?

JP: It has now. Not completely, but they do have a new frequency assignment and they do have some high-band equipment. The repeaters aren't in place yet, and that's going to be the next piece of the puzzle. When those repeaters get in there, then they can switch over to the high band and start using that. So we're all real happy about that--that's important . . .

RC: . . . What did you think of the youth firefighters? The reservation firefighting group, when you were up there?

JP: I really didn't get to work with them very much. I really couldn't say, during that experience back then in the '70s. That was the one time I was working logistics; I was in camp. The time before you just worked with whatever crews were assigned to you, and generally they might have been out of Snake River Valley or an Hispanic crew out of New Mexico, or an Apache crew from Arizona, so I didn't have any of the local crews assigned to me at the time up there.

RC: Did you work on any other fires that U & O . . .

JP: No, just those two that I worked on. Since then they have again had some large fires and we've been able to supply them. We try to emphasize the interagency cooperation. In other words, we've had teams from within the state of Utah--they're not state teams but they're within the state--all BLM, Forest Service, State of Utah, Department of Natural Resources--we tried to emphasize using them, so when they'd gotten to that situation and on in the early '90s, we've said, "Let's call out the team, the team that's there, that's on standby, that's their responsibility now, let's do that." We're not going to put together a BIA team and ship them across two states to get them up there when you have folks right nearby that can do that. And who are more familiar with the area and can get things going a little bit faster maybe, not have so much catching up to do. So that's what we've done. That's been a big change that we've made. We've tried to make that everywhere.

RC: In addition to firefighting, what other activities have you been involved in forestry at U & O?

JP: The timber sales program is a little bit different. I was on a program review in '86 there. We looked at . . . basically the tribe was not interested in a sustainable commercial operation just for the sake of income, or even for jobs for that matter. You could show a few jobs out of it. I think it paled in comparison to the oil revenues that

were coming in and so they had different values associated with forest. And we looked at what they were doing. They were basically salvaging from the beetle outbreak, and they were salvaging or presalvaging. There was a lot of the older growth obviously lined up to go out next as the beetle epidemic spread, and so that's what they were doing locally. And they did it by permit rather than contract sales. I don't think they had the technical resources to put together a contract. And I don't think they would have been able to sell the timber on a contract basis. I don't think they could have gotten as good a price on contract, so there was nothing wrong with doing it by permit, but we did think there were certain aspects of selling that timber that they were missing by doing it by permit. They weren't doing it off of our forest officer's report.

Certain environmental aspects--they didn't have a good inventory or a good plan of what they were going to do. They didn't know if cutting a million feet one particular year was enough; was there really two million feet dying out there potentially? Or five million? Or maybe only a half-million? So we thought those kinds of things would require some professional assistance to get done.

But the agency at the time was still looking at--they'd eliminated the forester's position, partly because they had trouble keeping people there, and the superintendent thought he had other priorities to use the money for, and so we won't necessarily contradict the line officer on how, or tell him how he should do certain things to get it accomplished, we thought it was possible to get some of that technical assistance from the Forest Service or from the area in some cases, plus we could borrow some from other agencies. There's different ways to do that so--I think you may have asked me about that before. Our report didn't say, "You must have a forester here." That would have been the easy, clear-cut solution to the whole thing, just to say that, but because of the fact the report was a staff report to the line officer, it gave him some options on ways to handle it. But we did point out the problems he was having, problems that weren't being addressed up there.

RC: Would you like to elaborate on these problems, in particular in terms of the technical data that has not been able to be produced because of the lack of a forester?

JP: The timber type maps are very outdated, very old and outdated. The inventory at the time--there was no inventory. It had not been updated at the time, so again you didn't know exactly what you were dealing with. The expertise of the technicians wasn't enough to put in large scale cruises, design cruises, and put them in and to evaluate the amount of timber that was at risk or that was going to be lost.

So we really felt--and then the environmental aspects beneath the issues. The Endangered Species Act and those kinds of things. Although because they are on the fringe of a major national forest and their activities are really low level by salvaging, we didn't think that was a crisis problem. I didn't give it that kind of weight.

But I thought the long-range planning and intermediate-range planning was really lacking by not having somebody there professional and provide that to the tribe. So it's hard to make a case for that when the tribe's saying "We don't want you to cut anything" basically. Another reason they were cutting is that trees were dying, and they said that was okay to cut them. So it was strictly a salvage operation at that time. We think there's other things that can be done and I think we're getting there now. We got their

attention that there are values there that can be managed, other than just logging, that require some expertise.

RC: What would those be? Those other opportunities outside of timber and large logging contracts?

JP: The wildlife aspects of it. It's really important, the cover types of the forest and how it's managed. It greatly impacts the wildlife. And that needs to be fit in with the wildlife people. Sometimes cutting can be very beneficial to certain species, so they need to be aware of that when that's going to happen, and could happen. The other thing is that there is some economic development interest there and it has extended out to the woodlands, although we have talked to them about it years ago. And they decided no, they really didn't want to do that. They didn't want to cut any trees. They're starting to change their mind and there isn't any way to respond to that quickly from Phoenix, and so that's why we're really encouraged to see the superintendent's decided to put a forester on board.

RC: What about the woodlands? When did the tribe change its mind about the woodlands and begin to think about developing this resource?

JP: Just very recently. They just told us they want to start an enterprise here about a month ago. Doesn't get much more recent than that.

RC: What kind of an enterprise were they thinking about?

JP: Strictly a firewood business, to start with. They would use the pinion juniper. We've got 400,000 acres of pinion juniper woodland and they're what we call commercial acres of what we used to call the commercial acres in ponderosa pine, mixed conifer and lodgepole pine. They have about 35,000 acres of that that's operable. The ground's not too steep. They could get logging equipment in there. And it's one of those borderline operations. If you just look at 35,000 acres of timber and what you can produce from it, you're in the order of one million board feet a year, which may sound like a lot but it's really not that much. It really wouldn't be difficult for a single forester to handle four or five million feet in just timber sales. Now when you throw all the other duties in, the duties of protection and all that, then that gets pretty thin for an individual.

RC: Are you optimistic for the potential of woodlands development at U & O?

JP: Oh, definitely. I think the market's just going to increase as far as the value in the future. All the signs are . . . everybody talks about how hard it is to get firewood and things like that. So that's just going to increase the value. Maybe not in the short term here, but a little bit longer term, because you're competing against a lot of lodgepole pine right now that's beetle kill, so that's going to be around for a while and that's going to keep showing up on the market. But once that's gone, there's going to be an increase in the value of that material.

RC: You mean local lodgepole that's in the Uintah basin that's been beetle killed.

JP: Right. Basically the Ashleigh National Forest, it's really been devastated.

RC: When you look back over the last years that you've been in the area office, would you like to comment on the conservation activities that have been pursued at U & O, mainly the continuous forest inventory that the State of Utah initiated and the Forest Service inventory of woodlands, various projects such as the thinning project that . . . put together.

JP: As far as any inventories, we were able to fund them out of some additional sources, management planning and inventory, and get some funding for that to get those inventories done. We've worked with Dave Born on a number of reservations throughout the southwest to get that project. Dave works for that office out of Ogden. That's his job, is to inventory all the woodlands in the western U.S. I mean "all the woodlands." He really appreciates it when we work with him on the reservations because that fills a large piece of his puzzle, gives him a lot of information. And then he obviously is going to make it available for us because we participate on a cost basis also.

RC: He's with the U.S. Forest Service.

JP: Yes.

RC: Would you like to comment on that project . . . What are your feelings on that Forest Service project? Was it a good project? Useful for you in your planning purposes?

JP: Yes. And the inventory analysis, that information was used for projecting cuts. And the other thing is, the information is going to be available very shortly. We didn't have it in MRI format. But it's going to be available at the Agency. And that's something that . . . there's been a big change in inventories and how they were used for past management purposes. People would do these continuous forest inventories once every ten years. They would collect all the data, they would send it off to a computer guru and they would crunch tables of numbers, and then the numbers would be calculated into an allowable cut. Basically you just turned on this big crank and a number came out "kerchunk" and that was it, all that data you collected, all that inventory data, just sat on a shelf somewhere, and you had one little number that you used. That was it. That's what you got out of it.

Well now, people can use that for day-to-day operations, for questions that because of the way computers are and the software that's been developed, any particular questions or what-ifs that come up, the council now goes back to the forester and says, "We really want to do this. We want to cut all this area." He can go back to the data and see what the implications are then. Or if they have a large fire and it wipes out a large area, they can see what the implications of that are. See if the original estimates were based on having a certain amount of standing volume, now it's been reduced because of this disaster or insect disease outbreak --you can go back to that data almost immediately and make some changes for the current situation.

Which is really what a plan should be, something you should be able to document and update. Most of the inventory data can be used for answering a lot of other questions. We probably didn't work in soils type as opposed to productivity up there. But that may be . . . the answer may be in that data. And then we can apply procedures to that data to find those kinds of answers if that becomes a question.

RC: What are your impressions of the continuous forest inventory that the State of Utah Department of Forestry conducted? Was it as helpful as you had hoped it would be, or is it more helpful than you thought it might be, for this type of planning as you know?

JP: For long-range planning, it was sufficient. But I really wouldn't say it's adequate for day-to-day operations. That's the stage or level cruise that you're at in inventory. And it's the same with the Forest Service inventory that they did on the woodland. They're

going to give a report on woodland in Utah, so the number of plots they put in is very minimal. We usually ask them to put in more plots than they normally would so that we can use it on a similar reservation. I can't remember if we did that or not on U & O. We'd have to go back and look.

RC: What would be your just general impressions about U & O forestry in general as you look back from the time you were back in the area office as assistant forester and now area office forester--what would be your impressions of U & O forestry in general? Weaknesses? Strengths?

JP: I think it's just difficult to convince people that that's a viable program and a viable resource out there in a lot of cases, whether its tribal people who say "We don't want you doing anything right there because if a tree falls down deer" to central office looking to redistribute program dollars and saying "What do you really have going on there?" And so when you make the trip up there and you spend some time there, you understand that there really is a lot going on there and it's important to the people of the reservation, even though they don't always recognize how that fits in with what they're doing.

RC: Though you have the pressure from tribesmen not to cut, and you have pressure from the central office not to hire, what would you say have been real positive aspects from the standpoint of the forestry staff and what they're able to accomplish under those two very big limitations in many ways? What would you look at and say "They do these things well." What would those things be?

JP: I think I see some really major improvements in the fire program in the last 14 years or however long it's been. They have built a warehouse, a cache, have a full-time dispatcher, and before they had somebody as a secretary in the season who might answer the radio kind of thing; if he happened to walk by he answered the thing, so I think we've improved there.

RC: The professionalism is a key part of the improvement?

JP: Yeah. The other thing I think is the technicians that were there. Really fairly strong in administration. They were well organized individuals, and for that reason alone they could continue the program. They could accomplish things that otherwise, without any professional assistance, the program would have stopped completely. I'm not sure anything would have been going on up there. But they had a pretty good foundation and certainly knowledge of council politics and those kinds of things that really were helpful. And I see they've developed good working relationships with the timber operators and got prime dollar for the trees that they did sell, that they were salvaging; far more than anybody else was getting off the national forest.

I give them credit for that. And part of it was because of the way they were set up. They didn't require large bonds. They could respond on short notice by using permits, and so local operators who couldn't afford to go to the Forest Service and buy a big sale could afford to pay more for timber if it was on an as-needed basis, which the permit did. And they had enough operators and they stayed within the CFR requirements of how much you could sell on permit to an individual or company per year, and so they were all within bounds in that respect, and they were doing that there locally. They fell down on the mid-range and long-range planning, and we've been attempting to do that out of this office for them, and that's been a struggle.

RC: Why has it been a struggle?

JP: Planning should be done by the folks who are going to be using the plan. So I feel in some ways we're doing something that they may not feel ownership in in some respects. We need to get a draft to them and see what they say. You know, if they want to tear it up and they don't like it, that's fine as long as we can get them to say that they'll sit down and work on one that they'd like to have. That may be a point of beginning for them.

RC: So it's really the long-term planning that's been the deeper problem for U & O's . . .

JP: Right. If you're doing salvage, you don't need a plan to do that. If half your forest dies, your plan is to get half of it and get the value out of it that you can. There's obviously some resources that you could impact by having so much logging activity going on at one time, but basically if you're going to salvage and recover that value, then you're going to go after it, you don't have any choice on that. So as long as we're operating on that plane, then there wasn't that paramount need to have that long-range plan.

RC: Do you have any general comments, any concluding comments you'd like to make about forestry and U & O?

JP: One of the things that's come up recently has been the boundary issue. I hear all the time, and I try to sort it out as much as possible. I've read the decision on it that gives the tribe the right to administer hunting regulations over their own numbers within the original exterior boundary. But then there's people saying "We're ready to take over the beyond lands here for fire protection, and the local beyond's ready to give it to us." And I say, "No, wait a minute. Don't do that yet."

There's been that kind of thing. We had a big fire up at White Rocks and it burned across the boundary of the BLM, maybe a little Forest Service. So we had a joint rehab project and, in fact, the chairman last week was really grateful for the project, he said, "The grass looks great. You do a good job, we appreciate your efforts of rehabilitating the land." And that was a lot of efforts from around the area, not just the area and definitely local. But we were trying to get a fence in to protect the seeding project and it turned into a boundary dispute.

And it was on the BLM and on the tribe's side. BLM saying, "Well, this is going to be the official boundary." And the tribe was probably trying to do the same thing and move it to a different place to make it the official boundary. All we want to do is get a fence up to keep the horses out from eating the grass. And so it got into a kind of long drawn-out battle. And I'm really not sure where the fence wound up. But there was a fence that went up and it successfully accomplished what it intended to do, but when you get into these interagency things that's the kind of situations you run into. There's things that have absolutely nothing to do with what you're trying to accomplish.

RC: Do you think the boundary dispute will have any effect on forestry issues in the future at U & O? The tribe is talking about taking over fire activities on BLM land. What about any other lands?

JP: There is to the south. There is some question about a land transfer down there. Not up on the north end, but down at Hill Creek, there's separate legislation, there's separate action that might allow something to happen down there, so they haven't pursued it yet

but they will. But the overall issue with the north boundary, I think will have impact on forestry even if it's indirectly. Because any time . . . it can be good or bad.

If good cooperation develops between the state and the tribe and the Bureau in following court orders and how to resolve these things, then the spillover benefits will come to us too when we try to accomplish things. Particularly when you only have a single forester there, then that person needs to have an outlet for bouncing questions off of and looking at other technical expertise. And he's got to have some of it locally. So he's got to go talk to Forest Service foresters and BLM range people to see what kinds of problems they need countered and the solutions they've encountered in the same land types and cover types in the vicinity of where he's working, so I can see him going out . And if the people get into a big fight over it, then that spills over too and then they want to know what agency you're from, and you can go to hell if you're from the wrong one. So, yes it's going to have an impact. What it will be I don't know. From what I saw last week, it was encouraging. I saw positive signs of cooperation between the different agencies, including the tribal government, so that was a real positive.

RC: Speaking of the tribal government, do you think the tribe's position on forestry activities is starting to change? And if so, why?

JP: From my viewpoint, from what I see, yes it is changing, and why I really can't say because I don't know. I know a lot of folks have spent time trying to educate them on what the potential is out there. The other thing is the oil days seem to be over, at least the big up-front contracts, and they've spent all the oil money so it's just not there anymore. So they may be looking at more economic development and an enterprise that gives them 10 jobs a year isn't such a bad thing. It's worth their time to look at at least and consider. So that may be economically driven to look at those things where before it wasn't necessary.

RC: Do you have any other comments you'd like to make?

JP: Just that U & O is really an interesting place. I'm really pleased that we're going to have a forester up there. Really pushing to get somebody in there. We've got a detail in there now and possibly that individual can stay on. We'll have to see how that works out in the future, but it's a worthwhile place to have that there. I think we're falling down on the job if we don't have professional expertise at that location for that tribe.

RC: Thank you very much.

APPENDIX D

FOREST DEVELOPMENT

1. Sawmills Operating on the Uintah and Ouray Reservation.
2. Forestry Development and Sawmill Expenditures.
3. Uintah and Ouray Timber Contracts.
4. Timber Sale Data Cards
5. Table 1: Uintah and Ouray Analysis of Timber Cut, 1909-1990 [Year/Total MBF All Products/Total Value All Products]
6. Table 2: Uintah and Ouray Analysis of Timber Cut, 1909-1990 [Year/Logs MPF/Shingles/Lathes/Poles/Stulls, Bridge, MTL, Culvert/Christmas Trees/House by Fuel Cords/Irrigation Project/Trespass]
7. Table 3: Uintah and Ouray Annual Fire Report [Year/Fires/Acres Damaged/Forest Acres/Non-Forest Acres/MBF Damaged]

ITEM D-1: SAWMILLS OPERATING ON THE UINTAH AND OURAY RESERVATION

1. Uintah Mill No. 1. The United States Indian Service purchased and constructed this mill on Upper Daniels Creek, in western Uintah Reservation, in 1865. This was a water powered facility. The mill remained at the site for four years, leased to a white operator. The Uintah agent moved the mill to the upper Uintah River agency in late 1869 or early 1870 and then the mill was abandoned.
2. Uintah Mill No. 2. The United States Indian Service purchased this mill in 1871 and located the plant at the upper Uintah River agency. This was a portable steam powered mill and remained in operation until late 1886 when the boiler exploded, destroying the machinery.
3. Ouray Mill No. 1. The United States Indian Service purchased this for the newly created Ouray Agency in 1881. The mill remained at the Ouray Agency for nearly six years. Due to the lack of trees to cut, the mill was never assembled. After the Uintah Agency mill exploded, United States Army personnel from Fort Duchesne transported the mill to the Uintah Agency and assembled the structure in early 1887. The military used the mill for a brief period, then the Uintah Agency sawed lumber until 1901 when a heavy snowstorm collapsed the building and destroyed the machinery.
4. Quartermaster Mill, United States Army. The United States Army constructed their own sawmill at Dry Gulch in 1887. The military initially obtained building materials, and later, cord wood from this mill. By 1902, the military mill was disassembled.
5. Uintah Mill No. 3. The United States Indian Service authorized the construction of a new mill, to replace the structure destroyed by snow, in 1902. This structure remained on the upper Uintah River for nine years, 1902-1911. The Indian Service moved the mill to Dry Gulch in 1912. The mill was dismantled in 1928.
6. Draper Mill. A private contractor owned this mill and the structure was placed at Lake Fork in 1917. The mill produced lumber for the next three years, when it was removed.
7. Portable Mills. From 1947 until the present, small truly portable sawmills have operated for very brief periods on the Uintah and Ouray Reservation. The locations and names of these sawmills are impossible to determine.

ITEM D-2: FORESTRY DEVELOPMENT AND SAWMILL EXPENDITURES

- | | |
|------|--|
| 1865 | Uintah Mill No. 1. The United States Indian Service purchased this structure for \$5,000. |
| 1871 | Uintah Mill No. 2. The United States Indian Service purchased this mill for \$2,900. |
| 1882 | Ouray Mill No. 1. The United States Indian Service purchased this mill for the newly created Ouray Agency in 1881, but no cost figures were located. |
| 1902 | Uintah Mill No. 3. The United States Indian Service authorized \$2,500 for the construction of this mill. |
| 1919 | The United States Indian Service approved improvements for the agency sawmill costing \$2,124.57. |
| 1956 | The United States Bureau of Indian Affairs entered into a contract with Hammon, Jensen and Wallen to complete a reservation forest inventory. |
| 1962 | In November, 1962, Accelerated Public Works program provided funding permitting the reservation forestry staff to initiate timber stand improvement (thinning 600 acres and reseeding with pine cones 150 acres), porcupine control (3,000 acres), foot trails (25 miles), snag falling (2,500 acres), and beetle control (2,109 acres). The 1963 fiscal year for these projects was \$118,088.80. |
| 1963 | September, 1963 through January, 1964, designated the reservation's Accelerated Public Works Program for Forest Preservation and Multiple-Use Development in Duchesne County. The reservation received \$20,000 divided between Horse and Trail Construction (25 miles), snag felling (2,500 acres), and rebuilding Big Spring and Uintah River Camp Grounds. |
| 1976 | Uintah and Ouray Continuous Forest Inventory, \$39,426. The State Forester of Utah established the inventory placing 76 test plots in Unit 1 (Rock Creek), 40 test plots in Unit 2 (Bear Wallow), and 107 plots in Unit 3 (Dark Canyon). The plots would determine timber volume and land productivity. |
| 1976 | Uintah and Ouray Forest Development Plan, \$11,266. The State Forester of Utah received this contract to prepare a forest development plan on the reservation. The commercial forest lands included 29,776 acres in Timber Unit 1, Unit 2, and Unit 3; as well as 433,448 acres of reservation woodlands. |

1978 Congressional Forest Development Account, Add-On funds provided the monetary support to develop the Timber Stand Improvement Plan. This project authorized spending \$73,973.70 for thinning 38 acres in Timber Unit 3 and 137 acres in Timber Unit 2.

Disclaimer: Controlled burns at Duchesne River and Wolf Flats, and others, often were funded by in-kind contributions.

ITEM D-3: UINTAH AND OURAY TIMBER CONTRACTS

1. Leonard J. Whitney entered into an operating and logging share contract with the United States Indian Service in June, 1866. The contract ended three years later in December, 1868. During the contract, Whitney was to deliver 37,500 board feet the first year and 62,500 board feet the following years. Whitney also leased the agency sawmill.
2. M. C. Wilson received a contract on May 22, 1913, that extended to June 1, 1913, to cut 1,000,000 board feet of bug infested timber on the reservation.
3. Alva M. Hardinger received an operating contract to cut reservation timber and to mill the lumber at the agency sawmill in 1914. The contract was renewed in 1915 and again in 1916. The Indian Service terminated Hardinger's contract in 1917. He never fully complied with the latter contract terms.
4. McKune Milling and Lumber Company. This local lumber company entered into a contract on September 20, 1916 to cut, to remove, and to mill 550,000 board feet of tribal timber. The contract ended on September 20, 1917.
5. J. E. Draper received a one year contract on May 22, 1918 to cut four million board feet of lumber from the reservation. The contract terms stipulated that only one-fourth of the lumber cut would be paid to the tribe as payment for logging. The Draper contract was extended.
6. The Uintah Power and Light Company obtained a small logging contract on September 17, 1919 to cut 1,400 cedar posts. The contract ended on September 30, 1919. The company paid ten cents per pole.
7. Albert Rasmussen was awarded a contract to cut 500,000 board feet from the reservation on June 25, 1921. Rasmussen had one year to complete the contract, and when Superintendent Albert Kneale asked for an extension, the Central Office of the Indian Service refused to extend the contract because the contract had been completed on the wrong form.
8. Norton Shelton received a contract in 1956 to cut 100,060 board feet of cottonwood trees. The contract was successfully completed.
9. Wagstaff and Reed Lumber Company obtained the first Twin Potts cutting contract on January 1, 1964. The company cut 3,124,000 board feet when the contract ended on December 31, 1966.
10. Charley DeFabrizio bid on the Pigeon Water unit and obtained the contract on July 28, 1965. DeFabrizio cut 1,680,000 board feet. The contract ended on December 31, 1967.

11. The Great Lake Timber Company obtained the Yellowstone unit cutting contract on December 3, 1965. The contract ended two years later on December 31, 1967, and the company cut 1,299,902 board feet.
12. The Bureau of Indian Affairs and the Uintah and Ouray Tribe granted the Bear Wallow contract to A. A. Lewis on August 19, 1966. The company cut 1,286,183 board feet when the contract ended on December 3, 1967.
13. The second Twin Potts contract timber sale was awarded to the Caldwell Timber Contract on July 7, 1967. The contract ended on December 31, 1967. During that six-month period, Caldwell cut 405,424 board feet.
14. Leland and C. Gale Wagstaff received the Lower Pigeon Water timber sale on November 12, 1967. The contractors cut 2,450,229 board feet when the contract ended on December 31, 1969.

ITEM D-4: TIMBER SALE DATA CARDS

AGENCY Utah & Ouray	REGISTRATION Utah & Ouray	LOGGING UNIT Lower Pigeon Water	CONTRACT NO. 14-20- 8HCL420C6393
SELLER Ute Indian Tribe	PURCHASER Leland & C. Gale Wagstaff	APPROVING OFFICE Asst Area Director	OFFICE FILE NO.
ASSIGNMENT APPROVED 19	ASSIGNED TO	NEGOTIATED PER 25 CFR 141	ADVERTISED 30 days 10/13/69 NO. OF BIDS RECEIVED: SEALED: 1 ORAL:
BID DATE 11/13/69	COMPLETION DATE 11/27/69	CONTRACT APPROVED 12/12/69	BOND APPROVED 19
CUTTING PERIOD ENDS 10/31/69	CONTRACT EXPIRES 12/31/69	EXTENSION APPROVED	AMOUNT 4,000
VOLUME DETERMINATION PREDICTED MINIMUM	MINIMUM ANNUAL CUT	MAXIMUM ANNUAL CUT	DATE MODIFIED 19

VOLUMES AND RATES

[illegible]**TOTAL VOLUMES**

METHOD OF PAYMENT SINGLE <input type="checkbox"/> INSTALLMENT <input checked="" type="checkbox"/>	MIN. ADVANCE DEPOSIT \$ 3,000	ESTIMATED BID VALUE \$ 26,952.52	TOTAL AMOUNT RECEIVED \$ 26,952.51
ADMIN. EXPENSE DEDUCTIONS % 10.82	ADMIN. EXPENSE DEDUCTIONS 2,695.26	CERTIFICATES OF COMPLETION 9/29 1969	SALE CLOSED BY APPROVING OFFICER 9/29 1969

10-63360-2

Stumpage Adjustment Provisions:

[illegible]

AGENCY <u>UNITED STATES ARMY</u>		RESERVATION <u>UNITED STATES ARMY</u>		LOGGING UNIT <u>ARMY WHEEL</u>		CONTRACT NO. <u>14-20-0-151-3723</u>	
SELLER <u>U.S. ARMY</u>		PURCHASER <u>MA. A. A. LELAND</u>		APPROVING OFFICER <u>G. W. HEDDEN</u>		CENTRAL OFFICE FILE NO.	
ASSIGNMENT APPROVED 19		ASSIGNED TO		NEGOTIATED PER 25 CFR 141		ADVERTISED 19	
BIOS OPENED <u>DEC. 5 1966</u>		CONTRACT SIGNED <u>AUG. 19 1966</u>		CONTRACT APPROVED <u>DEC. 12 1966</u>		BOND APPROVED <u>DEC. 12 1966</u>	
CUTTING PERIOD ENDS <u>DEC. 31 1967</u>		CONTRACT EXPIRES <u>DEC. 31 1967</u>		EXTENSION APPROVED		AMOUNT <u>\$2,500</u>	
VOLUME DETERMINATION. PREDETERMINED <input type="checkbox"/>		MINIMUM ANNUAL CUT		MAXIMUM ANNUAL CUT		SURETY <u>Fidelity & Deposit Co.</u>	
SCALE <input checked="" type="checkbox"/>						EXTENDED EXPIRATION DATE	
						DATE MODIFIED 19	

VOLUMES AND RATES

[illegible]

TOTAL VOLUMES

METHOD OF PAYMENT SINGLE <input type="checkbox"/> INSTALLMENT <input checked="" type="checkbox"/>	MIN. ADVANCE DEPOSIT \$	ESTIMATED BID VALUE \$	TOTAL AMOUNT RECEIVED \$ 10,658.29
ADMIN EXPENSE DEDUCTIONS %	ADMIN. EXPENSE DEDUCTIONS \$ 1182.33	CERTIFICATES OF COMPLETION Four 10 1967	SALE CLOSED BY APPROVING OFFICER MUG. 14 1967

10-53360-2

Stumpage Adjustment Provisions: 50% CHANGE IN SPECIES INDICES

[illegible]

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

AGENCY Uintah and Ouray		RESERVATION Uintah and Ouray		LOOKING UNIT Yellowstone		CONTRACT NO. 14 20 0450-5552 14-20-	
SELLER Ute Indian Tribe		PURCHASER Great Lake Timber Co.		APPROVING OFFICER W. Wade Head		CENTRAL OFFICE FILE NO.	
ASSIGNMENT APPROVED 19		ASSIGNED TO		NEGOTIATED PER 25 CFR 141.		ADVERTISED 10/22 1965	
BIDS OPENED 10/22 1965		CONTRACT SIGNED 12/3 1965		CONTRACT APPROVED 12/3 1965		NO. OF BIDS RECEIVED: SEALED: 2 ORAL:	
CUTTING PERIOD ENDS 12/31 1967		CONTRACT EXPIRES 12/31 1967		EXTENSION APPROVED -		AMOUNT \$ 2,000	
VOLUME DETERMINATION: PREDETERMINED <input type="checkbox"/> SCALF <input type="checkbox"/>		MINIMUM ANNUAL CUT		EXTENDED CUTTING PERIOD ENDS		SURETY U.S. Fidelity & Guarantee Co.	
				MAXIMUM ANNUAL CUT		EXTENDED EXPIRATION DATE	
						DATE MODIFIED	

VOLUMES AND RATES

[illegible]

TOTAL VOLUMES		1,299,902	
METHOD OF PAYMENT SINGLE <input type="checkbox"/> INSTALLMENT <input type="checkbox"/>	MIN. ADVANCE DEPOSIT \$ 2,000	ESTIMATED BID VALUE \$	TOTAL AMOUNT RECEIVED \$ 15,779.49
ADMIN. EXPENSE DEDUCTIONS %	ADMIN. EXPENSE DEDUCTIONS \$ 1,577.75	CERTIFICATES OF COMPLETION 12/12	19 67
		SALE CLOSED BY APPROVING OFFICER	

Stumpage Adjustment Provisions:

Base 84.59

[illegible]

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

AGENCY Three Spot (Twin Pots)		RESERVATION Uintah and Ouray		LOCATION UNIT Three Spot (Twin Pots)		CONTRACT NO. 14-20- 0450-6217	
SELLER Ute Indian Tribe		PURCHASER Caldwell Timber Co		APPROVING OFFICER George W. Hedden, Actg.		CENTRAL OFFICE FILE NO. -----	
ASSIGNMENT APPROVED 19		ASSIGNED TO -		NEGOTIATED PER 25 CFR 141. -		ADVERTISED 5/18	
BIDS OPENED 6/5 1967		CONTRACT SIGNED 7/11 1967		CONTRACT APPROVED 7/11 1967		NO. OF BIDS RECEIVED: SEALED: 3 ORAL:	
CUTTING PERIOD ENDS 12/31 19 67		CONTRACT EXPIRES 12/31 19 67		EXTENSION APPROVED		EXTENDED CUTTING PERIOD ENDS	
VOLUME DETERMINATION: PREDETERMINED <input type="checkbox"/> SCALE <input type="checkbox"/>		MINIMUM ANNUAL CUT		MAXIMUM ANNUAL CUT		SURETY	
						EXTENDED EXPIRATION DATE	
						DATE MODIFIED 19	

VOLUMES AND RATES

SPECIES	PRODUCT	EST MATED VOLUMES MBM	ACTUAL VOLUMES	BASE RATES	APPRAISED RATES	ADV. RATES	BID RATES
Ponderosa Pine		335	405,474 b.f.				11.81
TOTAL VOLUMES			405,474 b.f.	11.81			

TOTAL VOLUMES		405,474 b.f.		11.81	
METHOD OF PAYMENT		MIN. ADVANCE DEPOSIT		ESTIMATED BID VALUE	
SINGLE <input type="checkbox"/> INSTALLMENT <input type="checkbox"/>		\$ 1,000		\$ 3,956.35	
ADMIN. EXPENSE DEDUCTIONS		ADMIN. EXPENSE DEDUCTIONS		CERTIFICATES OF COMPLETION	
%		\$ 478.86		12/8 19 67	
				SALE CLOSED BY APPROVING OFFICER	
				19	

ITEM D-5: TABLE 1

1
 UINTAH AND OURAY
 ANALYSIS OF TIMBER CUT
 1909-1990

YEAR	TOTAL MBF ALL PRODUCTS	TOTAL VALUE ALL PRODUCTS
CY 1909	673.45	
CY 1910	600	
CY 1911	-	
CY 1912	-	
CY 1913	1000	
CY 1914		
CY 1915		
CY 1916		
CY 1917		
CY 1918	650	
CY 1919	1000	10833.53
CY 1920	835.64	10833.53
CY 1921	591.1	9784.62
CY 1922	635	12549.50
CY 1923	588	10111
CY 1924	363.7	X
CY 1925	25	532.50
CY 1926	-	
CY 1927	163.8	4989.99
CY 1928	-	
CY 1929	174.3	7159.60

YEAR	TOTAL MBF ALL PRODUCTS	TOTAL VALUE ALL PRODUCTS
CY 1930	184	6218.47
CY 1931	-	1026.50
CY 1932	6	738.50
CY 1933		568.52
CY 1934		1033.75
CY 1935		104
CY 1936		
CY 1937		
CY 1938	16	244
CY 1939		
CY 1940	466	590
CY 1941	388	
CY 1942	415	1492.99
CY 1943	515	
CY 1944	544	1014
CY 1945	321	1033.95
CY 1946	555	2464
CY 1947	523	2896
CY 1948	556	4109
CY 1949	317	2324
CY 1950	522	1989
CY 1951	736	5601
CY 1952	336	1096
CY 1953	910	11119
CY 1954	453	5060

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YEAR	TOTAL MBF ALL PRODUCTS	TOTAL VALUE ALL PRODUCTS
CY 1955	164	1059
CY 1956	237	3345
CY 1957	-	
CY 1958	94	865
CY 1959	108	787
CY 1960	187	1366
CY 1961	269	2780
CY 1962	223	3238
CY 1963	563	6958
CY 1964	1689	16436
CY 1965	3186	25143
CY 1966	4809	48593
CY 1967	3591	30644
CY 1968	2982	29406
CY 1969	1963	18094
CY 1970	626	7348
CY 1971	804	9544
CY 1972	1053	15877
CY 1973	1319	15949
CY 1974	730	11384
CY 1975	316	2530
CY 1976	307	2492
CY 1977	379	5144
CY 1978	465	5399
CY 1979	-	

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YEAR	TOTAL MBF ALL PRODUCTS	TOTAL VALUE ALL PRODUCTS
CY 1980	917	11613
CY 1981	607	11613
CY 1982	582	22017
CY 1983	433	19900
CY 1984	710	32087
CY 1985	883.2	19203
CY 1986	586.3	15510
CY 1987	1195.3	34900
CY 1988	1203	39277
CY 1989	941	32600
CY 1990	771	21416

DISCLAIMER (TABLE 1)

Superintendents' Annual Narrative and Statistical Reports From Field Jurisdictions of the Bureau of Indian Affairs, Uintah and Ouray, 1910-1935; Annual Forestry Reports, Uintah and Ouray, RG 75, National Archives; Annual Forestry Reports, Uintah and Ouray, RG 75, Laguna Niguel National Archives, Annual Forestry Reports, Uintah and Ouray Reservation, Branch of Forestry, Phoenix Area Office, and Computer Data From the Boise Interagency Fire Program were consulted for the annual fire activity that occurred on the Uintah and Ouray Reservation. These sources did not always record the early yearly fire activity. This was especially true in the first three decades of the twentieth century. Also, record keeping practices changed. Some records were available only for a fiscal year, other records were from a calendar year, forcing this appendix to reflect common fire record keeping denominators between all the different records sources.

ITEM D-6: TABLE 2

YEAR	LOGS MBF	SHING-LES	LATHE S	POLES	POSTS	STULLS BRIDGE MTL CUL- VERT	XMAS TREES	HOUSE-X FUEL CORDS	IRRI-GATIO N PRO-JECT	TRES-PASS
CY 1916	x									
CY 1917	x									
CY 1918	650									
CY 1919	1000									
CY 1920	835.61	137500	31300	2800	10000					
CY 1921	591.11	175000	48700	3833	5004			450		
CY 1922	635	200000	65000	3900	3400			850		
CY 1923	588	175000	65000	3700	3600			1100		
CY 1924	363	106500	19500							
CY 1925	25			3500	3000			850		

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02-D

								x	x	5161 CY
								x	x	4161 CY
		x						x	1001	1913 CY
										1912 CY
									No figures on Annual Report	1911 CY
									600	1910 CY
	MBF 73.61								673.45	1909 CY
TRES-PASS	IRRI-GATIO N PRO-JECT	HOUSE-X FUEL CORDS	XMAS TREES	STULLS BRIDGE MTL CUL- VERT	POSTS	POLES	LATHE S	SHING-LES	LOGS MBF	YEAR

2
 UINTAH AND OURAY
 ANALYSIS OF TIMBER CUT
 1909-1990

YEAR	LOGS MBF	SHING-LES	LATHES	POLES	POSTS	STULLS BRIDGE MTL CUL- VERT	XMAS TREES	HOUSE- X FUEL CORDS	IRRI- GATIO N PRO- JECT	TRES- PASS
CY 1936	No rec-ords									
CY 1937	No rec-ords									
CY 1938	12			1300	1690			92		
CY 1939	No data									
FY 1940	43.40			575	3945			386		
FY 1941	148			2424	4995			662		
FY 1942	155			600	11835			580		
CY 1943	313			1975	1355			527		
CY 1944	233			1480	150			636		
CY 1945	43			1250	2769	s-7000		705		
CY 1946	123			23800	2070	s-15660		683		

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										5361 YD
		401			0022	0091				4361 YD
		281.50			0052	001				3361 YD
		2721			5131	05			9	2361 YD
		317.50			2736	052				1361 YD
		404.50			6991		0047	38750	481	0361 YD
		510.88			1708	639		2000	174.29	6291 YD
									No rec-ords	8261 CY
POSTS 193		662			2525	0512		00059	163.79	1921 YD
										9261 CY
TRES- PASS	IRRI- GATIO N PRO- JECT	HOUSE- X FUEL CORDS	XMAS TREES	STULLS BRIDGE MTL CUL- VERT	POSTS	POLES	LATHES	SHING-LES	LOGS MBF	YEAR

YEAR	LOGS MBF	SHING-LES	LATHE S	POLES	POSTS	STULLS BRIDGE MTL CUL- VERT	XMAS TREES	HOUSE-X FUEL CORDS	IRRI-GATIO N PRO-JECT	TRES-PASS
CY 1957	No report									
CY 1958	94									
CY 1959	44			865	663			27		
CY 1960	129			2037	945			41		
CY 1961	213			2056	4500			5		
CY 1962	130			2856	7420			30		
CY 1963	124			8409	8660		1275	620		
CY 1964	1689									
CY 1965	2772			2240	6840		205	633		
CY 1966	4374			6660	3450		128	643		

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42-D

									LOGS MBF	9561 YD
		80			0402	0001			1001	5561 YD
		69	408		078	609			25	2561 YD
		260			1410	659			580	1951 CY
8.9 MBF		475			1351	659			226	0951 CY
8.9 MBF		495		0985-s	993	585			77	6461 CY
		605		s-21840	1045	15951			97	8461 CY
		683		s-30	17951	15351			160	1461 CY
TRES-PASS	IRRI-GATIO N PRO-JECT	HOUSE-X FUEL CORDS	XMAS TREES	STULLS BRIDGE MTL CUL- VERT	POSTS	POLES	LATHE S	SHING-LES	LOGS MBF	YEAR

YEAR	LOGS MBF	SHING- LES	LATHE S	POLES	POSTS	STULIS BRIDGE MTL CUL- VERT	XMAS TREES	HOUSE- X FUEL CORDS	IRRI- GATIO N PRO- JECT	TRES- PASS
CY 1977	379									
CY 1978	340			3631	761			209		
CY 1979	No report									
CY 1980	917									
CY 1981	168			6330	1910	s-10693	147	153		
FY 1982	582									
CY 1983	196			6283	3100	s-22500	220	240		
CY 1984	388			4430	3395	s-13865	574	399		
CY 1985	619			4470	3874	s-28400	256	717		
CY 1986	495.67			670	220	s-130500	283	169		

D-27

92-D

									406	9661 CY
					562	4142			452	5661 CY
		139	1301	6602-s						4661 CY
									730	4661 CY
									1319	6661 CY
									0	7661 CY
		262	171		10021	5116			0	7661 CY
										6661 CY
		331	395		1200	4246			0	6661 CY
									427	0661 CY
		266	353		1117	5339				6961 CY
									1716	6961 CY
		275	242		2500	5726				6961 CY
									2725	8961 CY
		428	594		2401	3345				8961 CY
									3057	8961 CY
		568			2140	6959				8961 CY
TRES- PASS	IRRI- GATIO N PRO- JECT	HOUSE- X FUEL CORDS	XMAS TREES	STULIS BRIDGE MTL CUL- VERT	POSTS	POLES	LATHE S	SHING- LES	LOGS MBF	YEAR

YEAR	LOGS MBF	SHING- LES	LATHE S	POLES	POSTS	STULLS BRIDGE MTL CUL- VERT	XMAS TREES	HOUSE- X FUEL CORDS	IRRI- GATIO N PRO- JECT	TRES- PASS
CY 1987	1128			605	248	s-15300	306	120		
CY 1988	1191			2767	2010	9925	398	163		
FY 1989	941									
FY 1990	771									

DISCLAIMER (TABLE 2)

Superintendents' Annual Narrative and Statistical Reports From Field Jurisdictions of the Bureau of Indian Affairs, Uintah and Ouray, 1910-1935; Annual Forestry Reports, Uintah and Ouray, RG 75, National Archives; Annual Forestry Reports, Uintah and Ouray, RG 75, Laguna Niguel National Archives, and Annual Forest Reports, Uintah and Ouray Reservation, Branch of Forestry, Phoenix area Office were consulted for the annual tabulations of wood products obtained from the Uintah and Ouray Reservation. These sources did not always record the yearly timber production by product. This was especially true in the first three decades of the twentieth century where tribal timber was cut from the reservation but the harvest was not recorded because Indian Service officials considered a sale to the Indian Irrigation Services during those years as a tribal sale being made to the tribe. That accounting method changed in later years, but illustrates some of the problems associated with forestry record keeping at the Uintah and Ouray Reservation. In addition, those wood products that were measured by the piece, such as lath, poles, posts, and shingles do not convert to MBF. Also, conversion formulas changed over time for those wood products that can be converted to MBF making consistent tabulations difficult. Also, several yearly records were only available for fiscal years not calendar years. As a result, totals for these wood products are not provided.

UINTAH AND OURAY
ANNUAL FIRE REPORT

YEAR	FIRES	ACRES DAMAGED	FOREST ACRES	NON- FOREST ACRES	MBF DAM- AGED
1910 ¹	N/A	NO FIRES REPORTED			
1911	0				
1912	0				
1913	0				
1914	0				
1915	0				
1916	0				
1917	0				
1918	0				
1919	0				
1920	0				
1921	0				
1922	0				
1923	0				
1924	0				
1925	0				
1926	0				
1927	2	4000	----	4000	
1928	0				
1929	0				

¹Annual Report states no fires for the season, plus no fires reported for previous ten seasons.

YEAR	FIRES	ACRES DAMAGED	FOREST ACRES	NON- FOREST ACRES	MBF DAM- AGED
1930	0				
1931	16	528.6 ²	----	----	----
1932	16	528.6	145	383.6	18.6
1933	2	21	1	20	----
1934	2	21	1	20	1
1935	3	95	----	95	----
1936	N/A MISSING REPORT				
1937	N/A MISSING REPORT				
1938	6	4	1	3	3
1939	N/A MISSING REPORT				
1940	24	718.8	36.5	682.3	26
1941	19	1654	127	1527	127
1942 ³	6	36		36	
1942 ⁴	33	888	372	516	7
1943	19	2308	20	2288	30
1944	12	53	----	53	----
1945	25	526	14	512	----

²Annual report does not mention if forest acres or non-forest acres damaged by fires.

³Regional Forester's figures for 1942.

⁴Uintah & Ouray Agency Summary for 1942.

YEAR	FIRES	ACRES DAMAGED	FOREST ACRES	NON-FOREST ACRES	MBF DAM-AGED	
CY 1946	25	766	135	631	----	
CY 1947	0	----	---	----	----	
CY 1948	19	260	5	255	----	
CY 1949	5	42	3	39	----	
CY 1950	13	56	----	----	----	
CY 1951	12	407	----	407	----	
CY 1952	5					
CY 1953	1	300	1	299	N/A	
CY 1954	6	264 ⁵				
CY 1955	6	102 ⁵				
CY 1956	10	1437	1353	84	1075	
CY 1957	3	106 ⁵				
CY 1958	16	1812	12	1800	5	
CY 1959	25	3189	32	3157	28	
CY 1960	22	1291	362	929	990	
CY 1961	28	886	2	884	N/A	
CY 1962	15	331	325	6	N/A	
					COMM./NON-COMM. ⁶	
CY 1963	29	402		155	101	146
CY 1964	11	479 ⁵			N/A	N/A

⁵Report does not indicate forest or non-forest acres damaged.

⁶At this point, annual fire reports listed commercial and non-commercial forest acres and non-forest acres damaged; MBF was omitted.

YEAR	FIRES	ACRES DAMAGED	FOREST ACRES	NON-FOREST ACRES	MBF DAM-AGED	
CY 1965	3	10	247	10	N/A	N/A
CY 1966	26	910		416	286	208
CY 1967	8	665		298	169	198
CY 1968	8	2634	----	2634	1	1
CY 1969	14	201	7	194	6	1
CY 1970	23	1348	524	824	518	6
CY 1971	18	1828	496	1332	1	495
CY 1972	22	869	228	641	106	122
CY 1973	N/A					
CY 1974	37	332	238	94	34	204
CY 1975	N/A					
CY 1976	N/A					
CY 1977	49	1135	223	912	---	223
CY 1978	N/A					
CY 1979	N/A					
CY 1980	21	134.1				
CY 1981	64	1107.9				
CY 1982	29	163.9				
CY 1983	24	1053.9				
CY 1984	30	584.4				
CY 1985	23	275.1				
CY 1986	46	621.2				
CY 1987	17	17.9				
CY 1988	42	11173.0				
CY 1989	47	858.8				

DISCLAIMER (TABLE 3)

Superintendents' Annual Narrative and Statistical Reports From Field Jurisdictions of the Bureau of Indian Affairs, Uintah and Ouray, 1910-1935; Annual Forestry Reports, Uintah and Ouray, RG 75, National Archives; Annual Forestry Reports, Uintah and Ouray, RG 75, Laguna Niguel National Archives, and Annual Forest Reports, Uintah and Ouray Reservation, Branch of Forestry, Phoenix Area Office were consulted for the tabulations of annual total volume (MBF) and monetary values for all wood products produced on the Uintah and Ouray Reservation. Prior to 1935, total yearly volumes of all products and valuation were not recorded. In addition, these dollar amounts were not adjusted for inflation and represent the actual yearly value from the year given. Also, records for some years were only available as fiscal year records, not calendar year records. As a result, totals are not provided.

APPENDIX E

CHRONOLOGY OF KEY PERSONNEL

1. Commissioners of Indian Affairs
2. Chiefs, Branch of Forestry
3. Area Directors, Phoenix Area Office
4. Area Foresters, Phoenix Area Office
5. Superintendents and Agents, Uintah and Ouray Agency
6. Uintah and Ouray Agency Foresters in Charge
7. Members of the Uintah and Ouray Tribal Business Committee

ITEM E-1: COMMISSIONERS OF INDIAN AFFAIRS

<u>Commissioners</u>	<u>Year of Appointment</u>	<u>President</u>
Elbert Herring	1831	Andrew Jackson
Carey Allen Harris	1836	Andrew Jackson & Martin Van Buren
Thomas Hartley Crawford	1838	Martin Van Buren, William H. Harrison, and John Tyler
William Medill	1845	James K. Polk and Zachary Taylor
Orlando Brown	1849	Zachary Taylor and Millard Fillmore
Luke Lea	1850	Millard Fillmore
George W. Manypenny	1853	Franklin Pierce
James W. Denver	1857	James Buchanan
Charles E. Mix	1858	James Buchanan
James W. Denver	1858	James Buchanan
Alfred Burton Greenwood	1859	James Buchanan
William P. Dole	1861	Abraham Lincoln and Andrew Johnson
Dennis Nelson Cooley	1865	Andrew Johnson
Lewis Vital Bogy	1866	Andrew Johnson
Nathaniel Green Taylor	1867	Andrew Johnson
Ely Samuel Parker	1869	Ulysses S. Grant
Francis A. Walker	1871	Ulysses S. Grant
Edward Parmelee Smith	1873	Ulysses S. Grant
John Q. Smith	1875	Ulysses S. Grant and Rutherford B. Hayes
Ezra A. Hayt	1877	Rutherford B. Hayes
Roland E. Trowbridge	1880	Rutherford B. Hayes
Hiram Price	1881	James Garfield and Chester A. Arthur
John D.C. Atkins	1885	Grover Cleveland
John H. Oberly	1888	Grover Cleveland
Thomas Jefferson Morgan	1889	Benjamin Harrison
Daniel M. Browning	1893	Grover Cleveland
William A. Jones	1897	William McKinley and Theodore Roosevelt
Francis Ellington Leupp	1905	Theodore Roosevelt
Robert Grosvenor Valentine	1909	William Howard Taft
Cato Sells	1913	Woodrow Wilson

Charles Henry Burke	1921	Warren G. Harding and Calvin Coolidge
Charles James Rhoads	1929	Herbert Hoover
John Collier	1933	Franklin D. Roosevelt
William A. Brophy	1945	Franklin D. Roosevelt and Harry S. Truman
John Ralph Nichols	1949	Harry S. Truman
Dillon Seymour Myer	1950	Harry S. Truman
Glenn L. Emmons	1953	Dwight D. Eisenhower
Philleo Nash	1961	John F. Kennedy and Lyndon B. Johnson
Robert L. Bennett	1966	Lyndon B. Johnson
Louis Rook Bruce	1969	Richard M. Nixon
Morris Thompson	1973	Richard M. Nixon and Gerald Ford
Benjamin Reifel	1976	Gerald Ford
Forrest J. Gerard	1977*	Jimmy Carter
William E. Hallett	1979	Jimmy Carter
Ken Smith	1981*	Ronald Reagan
Ross Swimmer	1985	Ronald Reagan
Eddie F. Brown	1989	George Bush

*Title changed to Assistant Secretary of Indian Affairs

ITEM E-2: CHIEFS, BRANCH OF FORESTRY (CHIEF FORESTER)

<u>Name</u>	<u>Term of Service</u>
Joseph Farr (Indian Service Forester)	1910-1911
Alfred K. Chittenden (Indian Service Forester)	1911-1913
Franklin W. Reed (Indian Service Forester)	1913-1914
J. P. Kinney (Chief, Supervisor of Forests)*	1914-1933
Robert Marshall (Director of Forestry)	1933-1937
Lee Muck (Director of Forestry)	1937-1938
L. D. Arnold (Director of Forestry)	1941-1953
Percy Melis (Chief Forester)	1954-1957
George S. Kephart (Chief Forester)	1957-1964
Perry E. Skarra (Chief Forester)	1965-1969
Earle Wilcox (Chief Forester)	ca. 1970-1973
Gregory Stevens (Acting Chief Forester)	1974-1977
George E. Smith (Chief Forester)	1978-1983
Marshall Cutsforth (Chief Forester)	1984-1992

In 1980 the Forestry Branch in Washington, D. C., was elevated to Division status within the Bureau of Indian Affairs.

*Later called the Director of Forestry and Chief, Branch of Forestry.

ITEM E-3: AREA DIRECTORS, PHOENIX AREA OFFICE

<u>Name</u>	<u>Term of Service</u>
Walter V. Woehlke	1949-1951
Ralph M. Gelvin	1951-1954
Frederick M. Haverland	1955-1962
William Wade Head	1962-1971
John H. Artichoker, Jr.	1971-1978
James H. Stevens	1982-1988
Wilson Barber	1988-

ITEM E-4: AREA FORESTERS, PHOENIX AREA OFFICE

<u>Name</u>	<u>Term of Service</u>
Harold Weaver	1948-1954
Carthon R. Patrie*	1955-1963
Charles D. Worthman	1963-1972
Kent Litton	1973-1979
Everett Q. Prewitt	1979-1984
Fred G. Malroy	1984-1986
John Philbin	1986-

*Patrie was the Area Forester in the Gallup Area Office from 1953-1960. When Harold Weaver went to Washington, D.C., Patrie became Gallup Area Forester and Phoenix Area Forester at the same time with duty station in Gallup, New Mexico. In 1960, Patrie moved to Phoenix as Area Forester.

ITEM E-5: SUPERINTENDENTS AND AGENTS, UINTAH AND OURAY AGENCY

<u>Name</u>	<u>Term of Service</u>
Administered by J. S. Calhoun, Indian Agent, from Santa Fe, New Mexico	1850
Administered by Brigham Young, Superintendent of Indian Affairs, Salt Lake City, Utah	1850
J. H. Holeman, Indian Agent, and Garland Hurt, Indian Agent (specific dates of each administration not on record)	1850-1856
Jacob Forney, Agent and Superintendent of Washington Territory, but responsible for reporting on Utes	1857-1859
A. Humphreys, Superintendent of Indian Affairs, Territory of Utah	1859-1861
James Duane Doty, Superintendent of Indian Affairs, Territory of Utah	1862-1863
Agent Mann	1864
Superintendent Irish, Superintendent of Indian Affairs, Territory of Utah	1865
Thomas Carter as Agent in Utah, and Major S. W. Rhodes as Agent in Uintah	1866
F. H. Head, Superintendent, and D. W. Rhodes as Agent at Uintah	1867
F. H. Head, Superintendent, and Pardon Dodds as Agent at Uintah	1868
Lt. George W. Fraffam, Agent in charge	1869-1871
J. J. Critchlow as Indian Agent (1882-1883); J. F. Minnis, Agent at Ouray	1871-1883

Elisha W. Davis, Agent at Ouray 1884-1885

Eugene E. White, Agent, Uintah and Ouray Agency, Whiterocks, Utah, with Wm. Carson as Special Agent and referred to as predecessor. Wm. A. McKewen, Clerk in Charge at Sub-Agency, Ouray, Utah. (Col. F. W. Benton set up first temporary headquarters at Fort Duchesne, Utah on August 19, 1886. Executive Order of Sept. 1, 1887, established Fort Duchesne.)

1886

T. A. Byrnes, Indian Agent

1887-1890

Robert Waugh, Indian Agent

1891-1893

Major James F. Randlett

1894-1897

Captain George A. Cornish relieved Captain Wm. H. Beck of the 10th Cavalry from July 10, 1897 to October 1, 1898

1898

H. P. Myton, Indian Agent

1899-1902

Captain W. A. Mercer, Indian Agent

1903

Captain C. G. Hall, 7th Cavalry, Indian Agent

1904-1911

H. J. Breese, C. G. Early, Jewell D. Martin, and Agent Rosecranz. (The specific dates of each administration are not on record.)

1911-1915

Albert H. Kneale, Superintendent

1915-1925

Fred A. Gross, Superintendent

1925-1927

Henry A. Tidwell, Superintendent

1927-1932

Walter Page, Superintendent

1932-1936

C. C. Wright, Superintendent

1936-1943

Knute Hall, Superintendent

1943

Mrs. E. B. Jermark, Acting Superintendent (first six months) 1944

Forrest R. Stone, Superintendent 1944-1952

Harry W. Gilmore 1952-1955

John O. Crow 1955-1957

Darrell Fleming 1957-1959

Martin M. Zollar 1959-1964

Melvin L. Schwartz 1964-1967

Stanley D. Lyman 1967-1972

William F. Strietz 1972-1976

Pat Ragsdale 1977-1978

LaVern W. Collier, Jr. 1979-1983

Melvin A. Core 1984-1985

Perry J. Baker 1986-

**ITEM E-6: AGENCY FORESTERS IN CHARGE
UINTAH AND OURAY RESERVATION**

Charles J. Langer, Junior Forester	1931-1938*
Richard M. Millin, Regional Forester	1939-1940
Joe A. Wagner, Assistant Range Examiner	1941-1942
Paul A. Krause, Range Supervisor & Range Manager	1943-1950
Joe A. Wagner, Range Conservationist, and	1951-1952
Paul A. Buss, San Carlos Forest Supervisor	1951-1952
Paul L. Howard, Range Manager	1953-1954
Anthony G. Wieland, Range Conservationist	1955-1956
Wayne O. Yargus, Forester, Range Management	1957-1960
Everett Q. Prewitt, Forester	1961
Roy H. Degler, Forester	1962-1970
Grover W. Sixkiller, Forestry Technician	1970-1980
Robert Bizal, Forester	1980-1981**
Robert G. Reyos, Supervisory Forestry Technician	1980-1990
Gary Orr, Forester	1991-

This list was compiled from the Annual Forestry Reports, Uintah and Ouray Reservation. As the list indicates, Range Specialists often were assigned forestry duties. That trend illustrates that forestry development activities, including logging, were often slighted. At other times, the absence of any forestry staff forced the Agency administration to seek assistance from the Regional (later Area) Forester. Despite the diverse number of forest supervisors, reservation Forest Guards and the reservation Superintendent often made many of the day-to-day decisions.

*No records were found indicating the exact date that Langer left his position. Prior to Langer's appointment as Junior Forester, various individuals had been employed to work with the reservation's timber. These positions included an engineer, a sawyer, and a forest guard. Despite hiring individuals to fill these early positions, the reservation agent and later superintendent made most timber-related decisions.

**Bizal served from October, 1980 through February, 1981.

ITEM E-6:

MEMBERS OF THE UINTAH AND OURAY TRIBAL BUSINESS COMMITTEE

1927	Henry Johnson, John Yesto, Fred Mart*, Jim Atwine, Pawwinnee, Dick Wash
1930	Fred Mart, Jim Atwine, Henry Johnson, Chauncey Cuch, McKewan, Little Jim
1932	Fred Mart*, Willie Duncan, Poowegup, Henry Johnson, McKewan, Pawwinnee
1934	Oran Curry*, Roy Smith, John Victor, Fred Mart, Chauncey Cuch, George Redcap
1937	Saponeis Cuch, Roy Smith, Johnson Wopsock, Fred Mart, Francisco Cesspooch, Pawwinnee
1941	Francisco Cesspooch*, Roy Smith, Fred Mart, Johnson Wopsock, Pawwinnee, Saponeis Cuch
1943	Oran Curry*, Julius Murray, Tecumseh Murray, Lawrence Appah, Saponeis Cuch, Pawwinnee
1939	Oran Curry, Fred Mart, Johnson Wopsock, Roy Smith, Pawwinnee, Saponeis Cuch
1953-55	R.O. Curry, Sarah Haskford, Ouray McCook, Russel Cuch, Connie Mack Denver, Fred Pariette
1956	Jason Cuch, Henry T. Cuch, Ouray McCook, Wallace Tabbee, Harvey Natchees
1957	Ouray McCook, Wallace Tabbee, Thomas Appah, Henry Cuch, Jason Cuch, Connor Chapoose
1958	Harvey Natchees, Maxie Chapoose, Jason Cuch, Connor Chapoose, Wallace Tabbee, Ouray McCook
1959	Francis McKinley, Harvey Natchees, Ouray McCook, Connor Chapoose, Jason Cuch, Wallace Tabbee
1960	Henry Cuch, Jason Cuch, Francis McKinley, Connor Chapoose, Sidney Atwine, Ouray McCook

1962 Harvey Natchees, Sidney Atwine, Juanita Groves, Jason Cuch, John Wopsock, Francis McKinley

1963 Harvey Natchees, Juanita Groves, Howell Dan Appawoo, Francis McKinley, John Wopsock, Maxie Chapoose

1964 Harvey Natchees, Juanita Groves, John Wopsock, Francis McKinley, Maxie Chapoose, Howell D. Appawoo

1965 Francis Wyasket, Frank Arrowchis, Howell D. Appawoo, Thomas Appah, Maxie Chapoose, Francis McKinley

1966 Francis Wyasket, Frank Arrowchis, Howell D. Appawoo, Maxie Chapoose, Fred A. Conetah, Thomas Appah

1968 Francis Wyasket*, Russel Cuch, Frank Arrowchis, Fred Conetah, Homey Secakuku, Harvey Natchees

1969-72 Francis Wyasket*, Homey Secakuku, Irene Cuch, Cary Poowegup, Fred Conetah, Wilbur Cuch

1972-73 Homey Secakuku*, Lester Chapoose, Elwyn DuShane, Francis Wyasket, Gary Poowegup, Fred Conetah

1974 Homey Secakuku*, Lester Chapoose, Elwyn DuShane, Francis Wyasket, Gary Poowegup, Albert Manning

1975 Lester Chapoose*, Myron Accuttoroop, Charles Redfoot, Elwyn DuShane, Francis Wyasket, Floyd Wopsock

1976 Lester Chapoose*, Elwyn DuShane, Charles Redfoot, Albert Manning, Floyd Wopsock, Myron Accuttoroop

1977 Ruby Black*, Myron Accuttoroop, Charles Redfoot, Antone Appawoo, Ouray McCook, Floyd Wopsock

1979 Charles Redfoot, Ruby Black*, Leon Perank, Floyd Wopsock, Antone Appawoo, Ouray McCook

1981 Charles Redfoot, Ruby Black, Leon Perank, Stewart Pike, Homey Secakuku*, Floyd Wopsock

1983 Homey Secakuku, Stewart Pike, Lester Chapoose, Floyd Wopsock*, Frank Arrowchis, Leon Perank

1985 Lester Chapoose*, Floyd Wopsock, Leon Perank, Maxine Natchees, Frank Bishop Arrowchis, Stewart Pike

1986 Leon Perank, Lester Chapoose*, Maxine Natchees, Frank Bishop Arrowchis, Stewart Pike, Floyd Wopsock

1987 Lester Chapoose*, Irene Cuch, Maxine Natchees, Wilford Conetah, Stewart Pike, Gary Poowegup

1988 Lester Chapoose*, Irene Cuch, Maxine Natchees, Wilford Conetah, Stewart Pike, Gary Poowegup

1989 Luke Duncan*, Curtis Cesspooch, Stewart Pike, Alvin Pinnecoose, Gary Poowegup, Floyd Wopsock

1990 Luke Duncan*, Curtis Cesspooch, Stewart Pike, Alvin Pinnecoose, Gary Poowegup, Floyd Wopsock

1991 Luke Duncan*, Curtis Cesspooch, Stewart Pike, Alvin Pinnecoose, Gary Poowegup, Floyd Wopsock

1992 Luke Duncan*, Curtis Cesspooch, Stewart Pike, Clifford Duncan, Floyd Wopsock, Gary Poowegup

*President or Chairman